

1 T. PETER PIERCE (Bar No. 160408)
ppierce@rwglaw.com
2 LISA BOND (Bar No. 172342)
lbond@rwglaw.com
3 RICHARDS, WATSON & GERSHON
A Professional Corporation
4 355 South Grand Avenue, 40th Floor
Los Angeles, California 90071-3101
5 Telephone: 213.626.8484
Facsimile: 213.626.0078

6 Attorneys for Defendant.
7 City of Redondo Beach

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 CHARLES NICHOLS,

12 Plaintiff,
13 vs.

14 KAMALA D. HARRIS, Attorney
General, in her official capacity as
15 Attorney General of California, CITY
OF REDONDO BEACH and DOES 1 to
16 10,

17 Defendants.

Case No. CV-11-9916 SJO (SS)

**OPPOSITION OF DEFENDANT
CITY OF REDONDO BEACH TO
PLAINTIFF'S EX PARTE
APPLICATION FOR STAY
PENDING APPEAL; DECLARATION
OF T. PETER PIERCE IN SUPPORT**

Judge: Hon. S. James Otero

18 Defendant City of Redondo Beach submits the following memorandum of
19 points and authorities in opposition to the ex parte application for stay pending
20 appeal filed by Plaintiff Charles Nichols:

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. Preliminary Statement

Defendant City of Redondo Beach (the “City”) opposes on the following grounds the ex parte application for a stay pending appeal filed by Plaintiff Charles Nichols (“plaintiff”):

First, plaintiff has not provided an adequate explanation as to why he cannot seek a stay through a noticed motion.

Second, plaintiff cannot show that he would be prejudiced by the noticed motion procedure; his request for a stay has no merit in the first place. Plaintiff appeals from an order denying a preliminary injunction with respect to enforcement of three California statutes. Plaintiff did not seek a preliminary injunction with respect to enforcement of the City’s prohibition on firearms in public parks. The constitutional validity of California’s statutes is an issue entirely separate from the validity of the City’s regulation. This Court may continue to exercise jurisdiction over plaintiff’s claims against the City without concern for running afoul of any decision of the Ninth Circuit with respect to enforcement of California law.

Third, still pending before the Court is the City’s Motion to Dismiss all of the claims asserted against it in the operative Second Amended Complaint. A stay of the proceedings would prejudice the City by depriving it of the opportunity to have its legal defenses adjudicated now, and would leave the City in legal limbo for the duration of the stay.

Fourth, well after the City filed its Motion to Dismiss, plaintiff pled no contest to a misdemeanor criminal complaint filed against him in California state court arising from the same course of conduct underlying his claims against the City here. After researching the potential impact of that plea on plaintiff’s claims here, the City has concluded that it has additional grounds to move for judgment against plaintiff. The City is drafting a detailed Rule 7-3 pre-meeting letter to plaintiff in an effort to

convince him to dismiss his claims against the City in the wake of his plea in state court. A stay by this Court would further prejudice the City by depriving it of an opportunity to obtain a resolution on the merits now.

In summary, the City's continued efforts to obtain a favorable judgment should not be derailed by an appeal that has nothing to do with plaintiff's claims against the City.

II. The Ex Parte Application Should Be Denied Because Plaintiff Has Not Adequately Explained Why A Noticed Motion Would Be Ineffective.

The Court's Initial Standing Order advises: "Ex parte applications are discouraged. *Mission Power Eng'g Co. v. Cont'l Casualty Co.*, 883 F.Supp. 488 (C.D.Cal. 1995) [*Mission Power*]." (Standing Order, p. 12, lines 1-2). "Many ex parte motions are denied, not because the underlying request is unwarranted, but because the papers do not show that bypassing the regular noticed motion procedure is necessary." *Mission Power*, 883 F.Supp. at 492. Plaintiff has not explained why his request for a stay cannot be accommodated through a regularly noticed motion. There is no reason why plaintiff cannot file a noticed motion and set it for hearing in advance of the September 4 deadline for the filing of the answering brief in the Ninth Circuit, which will be months in advance of the Ninth Circuit deciding the appeal. The ex parte application should be denied for this reason alone.

III. The Ex Parte Application Should Be Denied Because Plaintiff Has Not Shown Irreparable Prejudice.

Plaintiff must show (1) he "will be irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures"; and (2) he "is without fault in creating the crisis that requires ex parte relief." *Mission Power*, 883 F.Supp. at 492. Plaintiff fails to satisfy the first factor, rendering superfluous any discussion of the second.

“To show irreparable prejudice, it will usually be necessary to refer to the merits of the accompanying proposed motion, because if it is meritless, failure to hear it cannot be prejudicial.” *Mission Power*, 883 F.Supp. at p. 492. Plaintiff contends that this Court, by continuing to assert jurisdiction over plaintiff’s claims against the City, could interfere with the Ninth Circuit’s jurisdiction over plaintiff’s pending appeal. Plaintiff is mistaken. This Court refused to enjoin enforcement of California statutes on the ground that plaintiff was not likely to succeed on his *facial* challenges to those statutes under the Second, Fourth and Fourteenth Amendments. (See Order, Document 109, at pp. 4-10). The statutes, collectively, prohibit the carrying of loaded and unloaded firearms, including handguns, in public places. The *facial* validity of those statutes has nothing to do with plaintiff’s *as-applied* challenges to the City’s regulation under the Second, Fourth and Fourteenth Amendments. (See Second Amended Complaint, Document 83, at ¶¶ 45, 70-82). The City criminally prosecuted plaintiff for violating the City’s prohibition on firearms in public parks. (See Exhibit “A” attached, Declaration of T. Peter Pierce at ¶ 2; See also Second Amended Complaint, Document 83, at ¶ 45). Plaintiff has not shown that the validity of the City’s enforcement will be affected by the Ninth Circuit’s decision on the facial validity of California law.

To the extent plaintiff tries to state a facial Second Amendment claim against the City, he does not show that this Court, by retaining jurisdiction over that claim, would interfere with the Ninth Circuit’s jurisdiction. Nor could he show that. A ruling by this Court upholding the City’s regulation under the Second Amendment would not interfere with a Ninth Circuit ruling striking down one of the challenged California statutes on that ground. More importantly, for the reasons stated in this Court’s order denying a preliminary injunction, it is highly unlikely that the Ninth Circuit would invalidate any of the state statutes.

Separately and independently, plaintiff recently pled no contest in California state court to violating the City’s prohibition on firearms in public parks. (See


1 Exhibit "B" attached at p. 7; Pierce decl. at ¶ 3). Accordingly, he was found guilty of
 2 the misdemeanor charge, and convicted. (*See* Exhibit "B" attached at pp. 7-8; Pierce
 3 decl. at ¶ 3). The City is preparing a letter to plaintiff, under Local Rule 7-3,
 4 explaining that plaintiff's conviction forecloses his claims against the City under
 5 *Heck v. Humphrey*, 512 U.S. 477, 486-87, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994),
 6 and its progeny. Plaintiff's claims against the City are now foreclosed *regardless of*
 7 *the Ninth Circuit's decision in the pending appeal* involving California law. Unless
 8 plaintiff agrees to dismiss his claims against the City in the Rule 7-3 process, the
 9 City soon will be filing a motion for judgment on the pleadings or for summary
 10 judgment. The pending appeal should not derail that motion.

11 12 IV. Conclusion

13 For all of the foregoing reasons, the Court should deny plaintiff's ex parte
 14 application.

15
16 Dated: July 16, 2013

RICHARDS, WATSON & GERSHON
 A Professional Corporation
 T. PETER PIERCE
 LISA BOND

17
18
19 By: 
 20 T. PETER PIERCE
 21 Attorneys for Defendant
 22 City of Redondo Beach
 23
 24
 25
 26
 27
 28

DECLARATION OF T. PETER PIERCE

I, T. Peter Pierce, declare:

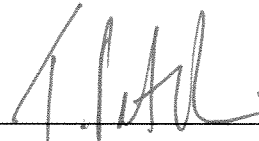
1. I am an attorney admitted to practice before this Court and licensed to practice in all courts of the State of California. I am one of the attorneys responsible for representing defendant City of Redondo Beach in this case. I have personal knowledge of the matters in this declaration.

2. Attached here as Exhibit "A" is a true and correct certified copy of the operative charging complaint filed in *People v. Charles Nichols*, which I obtained from the California Superior Court.

3. Attached here as Exhibit "B" is a true and correct certified copy of the complete docket sheet in *People v. Charles Nichols*, which I obtained from the California Superior Court. I have drawn a box around the parts of the docket sheet on pages 7 and 8 recounting Mr. Nichols' plea of no contest, the California Superior Court's finding of guilt, and its conviction of Mr. Nichols.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 16, 2013 at Los Angeles, California.



T. Peter Pierce

EXHIBIT A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, SOUTHWEST JUDICIAL DISTRICT**

PEOPLE OF THE STATE OF CALIFORNIA

COURT CASE # 2SY05163

FILED

PLAINTIFF
V.
DEFENDANT

COMPLAINT - MISDEMEANOR/ LOS ANGELES SUPERIOR CO
INFRACTION

MAY 10 2013

CHARLES ERWIN NICHOLS
16810 HAWTHORNE BLVD.
LAWNDALE, CA 90260

1st.
"AMENDED COMPLAINT""MODIFY WORDING IN CTI"
JUDICIAL CLERK
BY M. MILLIGAN, DEPUTY

DOB 03-12-60 SEX M HAIR BRO EYES BLU HGT 5'2" WGT 250 RACE W

OPR LIC # N6978836 ST CA

LPD/DR 12-3245

MAIN NUMBER

SOC SEC

VEH LIC ST

CII M91667305

ARRESTED CHGS 4-35.20(a) RBMC

FBI

BKG NUMBER

CITE # FOR LETTER

OCA # CA0195600

DATE OF ARREST MAY 21, 2012

VIO CITY REDONDO BEACH

AKA

FIRST

MID

LAST

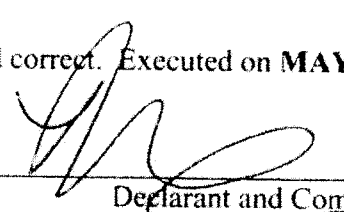
SFX

The undersigned declarant and complainant states that he is informed and believes and upon such information and belief declares that on or about **MAY 21, 2012** the above named Defendant, at and in the Southwest Judicial District in the County of Los Angeles, State of California, committed the crime(s) of:

COUNT 1

A misdemeanor violation of the **Redondo Beach Municipal Code Section 4-35.20(a)**, in that the above named Defendant did carry a weapon across, in, or into a park.

I declare under penalty of perjury that the foregoing is true and correct. Executed on **MAY 09, 2013** in the County of Los Angeles, State of California


Declarant and Complainant

Investigating Agency: Redondo Beach Police Department

THIS VERIFIED COMPLAINT INCORPORATES BY REFERENCE THE POLICE
REPORT DR # 12-3245

B# FOR LETTER

DK/ DA/BM

PURSUANT TO PENAL CODE SECTION 1054.3 THE PEOPLE HEREBY MAKE AN INFORMAL REQUEST FOR DISCOVERY TO BE DISCLOSED BY THE DEFENDANT AND HIS/HER ATTORNEY TO THE PEOPLE WITHIN 15 DAYS OF THE RECEIPT OF THIS COMPLAINT.



EXHIBIT B

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NO. 2SY05163

PAGE NO. 1

THE PEOPLE OF THE STATE OF CALIFORNIA VS.

CURRENT DATE 07/15/13

DEFENDANT 01: CHARLES ERWIN NICHOLS

LAW ENFORCEMENT AGENCY EFFECTING ARREST: REDONDO BEACH POLICE DEPT.

BAIL: APPEARANCE DATE	AMOUNT OF BAIL	DATE POSTED	RECEIPT OR BOND NO.	SURETY COMPANY	REGISTER NUMBER
--------------------------	-------------------	----------------	------------------------	----------------	--------------------

CASE FILED ON 07/13/12.

COMPLAINT FILED, DECLARED OR SWORN TO CHARGING DEFENDANT WITH HAVING
COMMITTED, ON OR ABOUT 05/21/12 IN THE COUNTY OF LOS ANGELES, THE FOLLOWING
OFFENSE(S) OF:

COUNT 01: 4-35.20(A) RBM MISD

NEXT SCHEDULED EVENT:

07/25/12 830 AM ARRAIGNMENT DIST TORRANCE COURTHOUSE DEPT 005

ON 07/25/12 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR ARRAIGNMENT

PARTIES: DAVID SOTELO (JUDGE) PATRICIA SOTO (CLERK)

THE CELIA BERNAL (REP) SYDNE S. MICHEL (CP)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSELDEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY
MICHAEL F SISSON PRIVATE COUNSEL

DEMURRER TO COMPLAINT FILED BY THE CITY OF REDONDO BEACH FILED.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

08/22/12 830 AM ARRAIGNMENT AND PLEA DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: RELEASED ON OWN RECOGNIZANCE

ON 08/17/12 AT 830 AM :

DEFENDANT CHARLES NICOLS DEMURRER TO COMPLAINT.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

08/22/12 900 AM MOTION DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

ON 08/22/12 AT 900 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR MOTION

PARTIES: DAVID SOTELO (JUDGE) PATRICIA SOTO (CLERK)

THE CELIA BERNAL (REP) SYDNE S. MICHEL ()

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSELDEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY
MICHAEL F SISSON PRIVATE COUNSEL

MOTION CONTINUED UNTIL 09/13/2012.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

09/13/12 830 AM ARRAIGNMENT AND PLEA DIST TORRANCE COURTHOUSE DEPT 005

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 2
DATE PRINTED 07/15/13

CUSTODY STATUS: RELEASED ON OWN RECOGNIZANCE

ON 09/13/12 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR ARRAIGNMENT AND PLEA
PARTIES: DAVID SOTELO (JUDGE) PATRICIA SOTO (CLERK)
CELIA BERNAL (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSEL

COURT ORDERS AND FINDINGS:
-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
09/27/12 830 AM ARRAIGNMENT AND PLEA DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 09/27/12 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR ARRAIGNMENT AND PLEA
PARTIES: DAVID SOTELO (JUDGE) PATRICIA SOTO (CLERK)
CELIA BERNAL (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSEL

CASE IS TAKEN UNDER SUBMISSION. RULING ON MOTION IS CONTINUED.
COURT ORDERS AND FINDINGS:
-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
10/24/12 830 AM MOTION DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 10/24/12 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR MOTION
PARTIES: DAVID SOTELO (JUDGE) PATRICIA SOTO (CLERK)
CELIA BERNAL (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSEL

DEFENDANT PLEADS NOT GUILTY TO COUNT 01, 4-35.20(A) RBM.
COURT ORDERS AND FINDINGS:
-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
DEMURRER IS DENIED.

WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:
12/11/12 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 11/07/12 AT 800 AM :

PAYMENT OF \$1.50 RECEIVED FOR PHOTOCOPIES.

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 3
DATE PRINTED 07/15/13

RECEIPT # SBA468645008
MATTER REMAINS ON CALENDAR FOR PRETRIAL HEARING DUE ON
12/11/12 DEPT. 5.
PRETRIAL HEARING

ON 12/11/12 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR PRETRIAL HEARING
PARTIES: CHET L. TAYLOR (JUDGE) SHIRLEY LINARES (CLERK)
WILLIAM BARNES (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY MICHAEL F SISSON PRIVATE
COUNSEL
WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:
01/14/13 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005
DAY 00 OF 30

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 01/14/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR PRETRIAL HEARING
PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) SYDNE S. MICHEL (CP)
PUBLIC DEFENDER APPOINTED. JOHN MATTINGLY - P.D.
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
ATTORNEY MICHAEL SISSON IS RELIEVED.

NOTICE OF ASSESSMENT OF APPOINTED COUNSEL REGISTRATION FEE PER
\$1987.5 SIGNED AND FILED
WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:
02/25/13 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005
DAY 00 OF 30

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 01/30/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR FURTHER PROCEEDINGS
PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY JOHN MATTINGLY DEPUTY
PUBLIC DEFENDER
DEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY
JOHN MATTINGLY DEPUTY PUBLIC DEFENDER
ORDER TO PREPARE TRANSCRIPT SIGNED.
NEXT SCHEDULED EVENT:
02/25/13 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005

ON 02/25/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR PRETRIAL HEARING

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 4
DATE PRINTED 07/15/13

PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:
03/18/13 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005
DAY 00 OF 30

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 03/18/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR PRETRIAL HEARING
PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) MELANIE CHAVIRA (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
OPPOSITION TO DEFENSE MOTION TO CONTINUE FILED.

DEFENSE MOTION FOR CONTINUANCE DENIED WITHOUT PREJUDICE.
NEXT SCHEDULED EVENT:
04/03/13 830 AM PRETRIAL HEARING DIST TORRANCE COURTHOUSE DEPT 005
DAY 15 OF 30

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 04/03/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR PRETRIAL HEARING
PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
CARMEN J. GARROD (REP) MELANIE CHAVIRA (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
NEXT SCHEDULED EVENT:
04/16/13 830 AM TRIAL/OR MOTION DIST TORRANCE COURTHOUSE DEPT 005
DAY 28 OF 30

NEXT SCHEDULED EVENT:
BY STIPULATION CAUSE CONTINUED TO
04/18/13 830 AM JURY TRIAL DIST TORRANCE COURTHOUSE DEPT 005
DAY 30 OF 30

ON 04/05/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR TRIAL/OR MOTION
PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) SYDNE S. MICHEL (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
4/16/13 AND 4/18/13 DATES ARE VACATED.
COURT ORDERS AND FINDINGS:
-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 5
DATE PRINTED 07/15/13

UPON MOTION OF DEFENDANT
04/30/13 830 AM JURY TRIAL DIST TORRANCE COURTHOUSE DEPT 005
DAY 00 OF 10

ON 04/11/13 AT 1000 AM IN TORRANCE COURTHOUSE DEPT REU

CASE CALLED FOR 987.8 - ATTORNEY FEES PAYMENT
PARTIES: NONE (JUDGE) NONE (CLERK)
NONE (REP) MELANIE CHAVIRA ()
DEFENDANT IS NOT PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL
PAYMENT RECEIVED FROM GC SERVICES FOR THE OUTSTANDING APPOINTED
COUNSEL REGISTRATION FEE IN THE AMOUNT OF \$50.00 ON INVOICE
#04132161.
NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

ON 04/30/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

NUNC PRO TUNC ORDER PREPARED. IT APPEARING TO THE COURT THAT THE MINUTE ORDER
IN THE ABOVE ENTITLED ACTION DOES NOT PROPERLY REFLECT THE COURT'S ORDER. SAID
MINUTE ORDER IS AMENDED NUNC PRO TUNC AS OF THAT DATE. ALL OTHER ORDERS ARE
TO REMAIN IN FULL FORCE AND EFFECT. DETAILS LISTED AT END OF THIS MINUTE ORDER.
CASE CALLED FOR JURY TRIAL

PARTIES: CHET L. TAYLOR (JUDGE) VIKKI JOHNSON (CLERK)
WILLIAM BARNES (REP) MELANIE CHAVIRA (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
PEOPLE'S OPPOSITION TO MOTION TO DISMISS FILED AND SET FOR
04-30-13 IN DEPT. 5.

MOTION TO DISMISS AND MARSDEN CONTINUED TO 05-03-13 IN DEPT. 5.

*****NO NUNC PRO TUNC ORDER REQUIRED*****

NEXT SCHEDULED EVENT:
05/03/13 830 AM MOTION DIST TORRANCE COURTHOUSE DEPT 005

DAY 03 OF 10

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 05/03/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR MOTION
PARTIES: CHET L. TAYLOR (JUDGE) VIKKI JOHNSON (CLERK)
WILLIAM BARNES (REP) MELANIE CHAVIRA (CP)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER
OUT OF THE PRESENCE OF THE PEOPLE, WITH THE COURT STAFF ONLY,
THE DEFENDANT'S MARSDEN MOTION IS HEARD AND DENIED.
THE COURT ORDERS THE NOTES OF THE REPORTER SEALED AND NOT TO
BE TRANSCRIBED UNLESS ORDERED BY THE COURT.

DEFENDANT'S MOTION TO DISMISS IS ARGUED AND DENIED.

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 6
DATE PRINTED 07/15/13

THIS MATTER IS CONTINUED FOR JURY TRIAL TO 05/08/2013.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

05/08/13 830 AM JURY TRIAL DIST TORRANCE COURTHOUSE DEPT 005
DAY 08 OF 10

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 05/06/13 AT 800 AM :

PAYMENT OF \$25.00 RECEIVED FOR CERTIFICATION.

RECEIPT # SBA468645008.

MATTER REMAINS ON CALENDAR FOR JURY TRIAL DUE ON 5/8/13 DEPT. 5.

JURY TRIAL

ON 05/08/13 AT 800 AM :

\$25.00 PAID FOR CERTIFICATION. RECEIPT#SBA500815010.

JURY TRIAL

ON 05/08/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR JURY TRIAL

PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)
WILLIAM BARNES (REP) MELANIE CHAVIRA (CP)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

05/10/13 830 AM JURY TRIAL DIST TORRANCE COURTHOUSE DEPT 005
DAY 08 OF 10

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 05/10/13 AT 830 AM IN TORRANCE COURTHOUSE DEPT 005

NUNC PRO TUNC ORDER PREPARED. IT APPEARING TO THE COURT THAT THE MINUTE ORDER
IN THE ABOVE ENTITLED ACTION DOES NOT PROPERLY REFLECT THE COURT'S ORDER. SAID
MINUTE ORDER IS AMENDED NUNC PRO TUNC AS OF THAT DATE. ALL OTHER ORDERS ARE
TO REMAIN IN FULL FORCE AND EFFECT. DETAILS LISTED AT END OF THIS MINUTE ORDER.

CASE CALLED FOR JURY TRIAL

PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)

CHRISTINE CHEATHAM (REP) MELANIE CHAVIRA (CP)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER

MATTER IS CALLED FOR JURY TRIAL.

DEFENDANT'S MOTION TO DISMISS BECAUSE PROSECUTION VIOLATES
RIGHT GUARANTEED BY THE BILL OF RIGHTS IS HEARD, ARGUED AND

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 7
DATE PRINTED 07/15/13

DENIED.

DEFENDANT'S MOTION TO CONTINUE IS DENIED.

A PANEL OF 30 PROSPECTIVE JURORS IS BROUGHT INTO THE COURTROOM
AND IS GIVEN THE PERJURY ADMONISHMENT REGARDING QUALIFICATIONS.

VOIR DIRE COMMENCES.

THE JURORS ARE ADMONISHED, EXCUSED, AND ORDERED TO RETURN ON
MAY 13, 2013 AT 11:00 A.M.

TRIAL IS RECESSED TO THE DATE AND TIME SHOWN BELOW.
COURT ORDERS AND FINDINGS:

-THE INITIAL JURY PANEL IS ADMONISHED.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
NEXT SCHEDULED EVENT:

05/13/13 1100 AM JURY TRIAL DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE

ON 05/13/13 AT 1100 AM IN TORRANCE COURTHOUSE DEPT 005

CASE CALLED FOR JURY TRIAL

PARTIES: CHET L. TAYLOR (JUDGE) MICHELLE MILLIGAN (CLERK)

CARMEN J. GARROD (REP) MELANIE CHAVIRA (CP)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN MATTINGLY DEPUTY PUBLIC
DEFENDER

DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS:
WRITTEN ADVISEMENT OF RIGHTS AND WAIVERS FILED, INCORPORATED BY REFERENCE
HEREIN

TRIAL BY COURT AND TRIAL BY JURY

CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES;
SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE;
AGAINST SELF-INCRIMINATION;

DEFENDANT ADVISED OF THE FOLLOWING:

THE NATURE OF THE CHARGES AGAINST HIM, THE ELEMENTS OF THE OFFENSE IN THE

COMPLAINT, AND POSSIBLE DEFENSES TO SUCH CHARGES;
THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING
THE MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL
EFFECTS AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE
SAME OR SIMILAR OFFENSES;

THE EFFECTS OF PROBATION;

IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE
OFFENSE FOR WHICH YOU HAVE BEEN CHARGED WILL HAVE THE CONSEQUENCES OF
DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF
NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.

THE COURT FINDS THAT EACH SUCH WAIVER IS KNOWINGLY, UNDERSTANDINGLY, AND
EXPLICITLY MADE; COUNSEL JOINS IN THE WAIVERS

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 01 AND PLEADS
NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION
4-35.20(A) RBM IN COUNT 01. THE COURT FINDS THE DEFENDANT GUILTY.

*

CASE NO. 2SY05163
DEF NO. 01

PAGE NO. 8
DATE PRINTED 07/15/13

COUNT (01) : DISPOSITION: CONVICTED

*

COURT ACCEPTS PLEA

PEOPLE VS. WEST.

NEXT SCHEDULED EVENT:

SENTENCING

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING

JUDGMENT:

AS TO COUNT (01):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON SUMMARY PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

PAY A FINE OF \$150.00

PLUS A STATE PENALTY FUND ASSESSMENT OF \$420.00

PLUS \$30.00 CRIMINAL FINE SURCHARGE (PURSUANT TO 1465.7 P.C.)

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

\$30.00 INSTALLMENT & ACCOUNTS RECEIVABLE FEE (PURSUANT TO 1205(D) PC)

\$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

DEFENDANT TO PAY FINE TO THE COURT CLERK

DEFENDANT SHALL PAY A RESTITUTION FINE IN THE AMOUNT OF \$120.00 TO THE COURT

TOTAL DUE: \$820.00

IN ADDITION:

-OBEY ALL LAWS AND ORDERS OF THE COURT.

-DEFENDANT ACKNOWLEDGES TO THE COURT THAT THE DEFENDANT

UNDERSTANDS AND ACCEPTS ALL THE PROBATION CONDITIONS, AND

DEFENDANT AGREES TO ABIDE BY SAME.

SENTENCE AND ORDER GRANTING SUMMARY PROBATION SIGNED AND FILED.

DEFENDANT REFUSES COMMUNITY SERVICE.

DO NOT COMMIT THE SAME OR ANY SIMILAR OFFENSE.

COUNT (01): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:

09/13/13 830 AM FINES/FEES DIST TORRANCE COURTHOUSE DEPT 005

CUSTODY STATUS: ON PROBATION

ON 05/13/13 AT 1130 AM IN TORRANCE COURTHOUSE DEPT CLK

CASE CALLED FOR FINES/FEES

PARTIES: NONE (JUDGE) NONE (CLERK)

NONE (REP) NONE (DDA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

DEFENDANT APPEARS IN PRO PER

PAYMENT IN THE AMOUNT OF \$820.00 PAID ON 05/13/13 RECEIPT # SBA468645011

NEXT SCHEDULED EVENT:

PROBATION IN EFFECT

NEXT SCHEDULED EVENT:

PROCEEDINGS TERMINATED

CUSTODY STATUS: ON PROBATION.

05/17/13 ARREST DISPOSITION REPORT SENT VIA FILE TRANSFER TO DEPARTMENT OF JUSTICE



PROOF OF SERVICE

I, Clotilde Bigornia, declare:

I am a resident of the state of California and over the age of eighteen years and not a party to the within action. My business address is 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101. On July 16, 2013, I served the within document(s) described as:

**OPPOSITION OF DEFENDANT CITY OF REDONDO BEACH
TO PLAINTIFF'S EX PARTE APPLICATION FOR STAY
PENDING APPEAL; DECLARATION OF T. PETER PIERCE IN
SUPPORT**

on the interested parties in this action as stated below:

Charles Nichols
P.O. Box 1302
Redondo Beach, CA 90278
Tel: (424) 634-7381

[X] (BY OVERNIGHT EXPRESS MAIL DELIVERY) By placing the document(s) listed above in a sealed envelope with Express Mail postage thereon fully prepaid, addressed as set forth above, and causing the envelope to be deposited with the United States Postal Service.

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

Executed on July 16, 2013, at Los Angeles, California.

I declare under penalty of perjury that the foregoing is true and correct.



Clotilde Bigornia