

1 C.D. Michel – SBN 144258
Sean A. Brady – SBN 262007
2 Matthew D. Cubeiro – SBN 291519
MICHEL & ASSOCIATES, P.C.
3 180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Facsimile: (562) 216-4445
5 Email: cmichel@michellawyers.com

6 Attorneys for Petitioners-Plaintiffs

7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10 **CENTRAL DISTRICT**

11 TURNER’S OPERATIONS, INC., a
12 California corporation; TRADERS LOAN
AND JEWELRY, INC., a California
13 corporation; FFLGuard, LLC, a Delaware
limited liability company; and CALIFORNIA
14 RIFLE & PISTOL ASSOCIATION,
INCORPORATED, a California corporation,

15 Petitioners-Plaintiffs,

16 v.

17 ERIC GARCETTI, in his official capacity as
18 Mayor of the City of Los Angeles;
MICHAEL N. FEUER, in his official
19 capacity as City Attorney of the City of Los
Angeles; MICHAEL MOORE, in his official
20 capacity as Chief of the Los Angeles Police
Department; CITY OF LOS ANGELES; and
21 DOES 1-25,

22 Respondents-Defendants.

Case No.: 20STCP01258

**DECLARATION OF SEAN A. BRADY IN
SUPPORT OF TURNER’S OPERATIONS
INC.’S EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE**

Hearing Date: April 28, 2020
Hearing Time: 8:30 a.m.
Department: 1

Action Filed: April 3, 2020

1 **DECLARATION OF SEAN A. BRADY**

2 I, Sean A. Brady, declare:

3 1. I am an attorney licensed to practice law before the courts of the State of
4 California. I am an associate attorney of the law firm Michel & Associates, P. C., attorneys of
5 record for Petitioners-Plaintiffs in this action. I have personal knowledge of the facts set forth
6 herein and, if called and sworn as a witness, could and would testify competently thereto.

7 2. Attached here as **Exhibit A** is a true and correct copy of a KTLA News article
8 titled *L.A. County sheriff shuts down gun shops again*, posted on March 26, 2020.

9 3. Attached here as **Exhibit B** is a true and correct copy of a SFGate News article
10 titled *Gov. Gavin Newsom says state won't issue guidance on whether gun stores are essential*
11 *businesses*, posted on March 25, 2020.

12 4. Pursuant to California Rule of Court 3.1204, on April 21, 2020, I gave notice of
13 this ex parte to counsel for Respondents-Defendants, Jonathan H. Eisenman and Benjamin F.
14 Chapman, Deputy City Attorneys for the City of Los Angeles via email at
15 jonathan.eisenman@lacity.org and benjamin.chapman@lacity.org.

16 5. On April 21, 2020, I was informed by Mr. Eisenman that Respondents-Defendants
17 would be opposing the ex parte application.

18 6. A true and correct copy of the email correspondence is attached here as **Exhibit C**.

19 I declare under penalty of perjury under the laws of the State of California that the
20 forgoing is true and correct.

21 Executed on April 27, 2020, at Huntington Beach, California.

22 

23
24 _____
25 Sean A. Brady
26 Declarant
27
28

EXHIBIT A

LOCAL NEWS

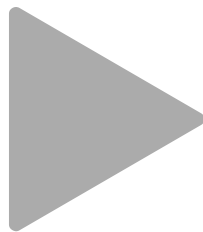
L.A. County sheriff shuts down gun shops again

by: [Associated Press](#), [Ellina Abovian](#)

Posted: Mar 26, 2020 / 01:35 PM PDT / Updated: Mar 27, 2020 / 10:06 AM PDT

L.A. County sheriff shuts down gun shops ag...

Ellina Abovian reports for the KTLA 5 Morning News on March 27, 2020.



For the second time this week, Los Angeles County Sheriff Alex Villanueva has ordered gun shops to close, a move that challenges the county legal counsel's finding that the stores are essential businesses that should remain open.

On Tuesday, Villanueva ordered the shops closed. Panic-buying that produced long lines at the shops was worrisome from a public safety standpoint, he said.

Soon after that, the county counsel and the health department said the shops are among those considered essential under the county's stay-at-home order that closed many businesses and urged all residents to stay home as much as possible.

On Wednesday, Gov. Gavin Newsom was asked during a news conference if he believes gun shops are essential. He demurred, saying it was up to sheriffs to determine that in their jurisdictions.

In issuing his closure order Thursday morning, Villanueva cited the governor's executive order on statewide closures during the crisis as stipulating gun stores are not essential. However, the order does not explicitly mention those businesses.

Villanueva said the shops may no longer sell to the general public but may still supply security guard companies. Anyone who already has purchased a gun and possesses a valid safety certificate can pick up their firearms, he said in a [statement](#).

Deputies have not needed to issue citations yet to enforce the order, the sheriff said Thursday afternoon during a news conference.

Gun groups are exploring legal challenges to the sheriff's order.

"You can't say part of the business is essential and part of it isn't," said Chuck Michel, an attorney for the National Rifle Association-affiliated California Rifle and Pistol Association. "Can Best Buy sell refrigerators but not PlayStations? Can Home Depot sell appliances but not flowers?"

Michel said Villanueva's decision comes at the expense of individuals.

"What he's deeming nonessential is people who want to buy firearms to protect their families," he said, adding that "when the veneer of civilization may crack, they want to be ready."

The sheriff appears to be trying to carve out a legal middle ground by not in effect seizing individuals' already purchased firearms and by allowing the stores to serve security guard companies, said Sam Paredes, executive director of Gun Owners of California.


"We are into new territory that has not been tread before," Paredes said. Gun groups are asking the federal government to declare that "gun stores are essential businesses, and it will resolve it for everybody and make it clear what we can and cannot do."

County Supervisor Sheila Kuehl said while she personally thinks gun stores are not essential businesses, the conflicting findings by Villanueva and the county likely need to get sorted out by a judge.

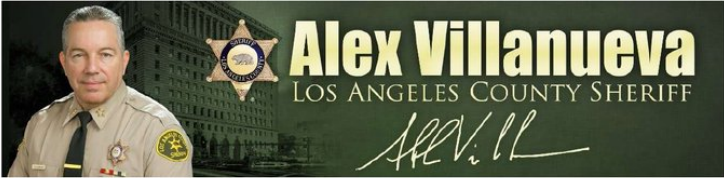
"Let them go to court about it," she said.

In the city of Los Angeles, officials have deemed gun shops to be nonessential and must close, according to City Attorney Mike Feuer. He said only “life-sustaining” businesses, such as grocery stores and pharmacies, can be open.

“There's nothing essential about being able to purchase a new handgun,” he said.

 **Alex Villanueva**
@LACoSheriff

In compliance with @CAGovernor 's Executive Order, Gun & ammunition stores are not considered essential businesses, and will cease to sell to the general public, there are some exceptions. Please see my full statement below: #COVID19 #SaferAtHome #flattenthecurve #LASD #SheriffV




Stores Which Sell Guns and Ammunition:

By order of the Sheriff of Los Angeles County, gun and ammunition stores are not considered essential businesses and must close to the general public, in compliance with the Executive Order-N-33-20 and County of Los Angeles Safer at Home Order for Control of COVID-19.

During the closure, they shall be permitted to sell ammunition to security guard companies. Also, I am making an exception for those who have already lawfully purchased a firearm, possess a valid California Firearms Safety certificate (CFS), and simply need to take possession of their firearm.

I conferred with the Los Angeles County Police Chiefs Association (LACPCA) and they support my decision to direct that action in the 42 contract cities and unincorporated Los Angeles County areas under the Sheriff's jurisdiction. I have deferred to the discretion of each individual chief of police as to their own jurisdictions.



Sheriff Alex Villanueva

240 11:02 AM - Mar 26, 2020

[635 people are talking about this](#)

L.A. County Sheriff provides COVID-19 update

Los Angeles County Sheriff Alex Villanueva provides an update on the coronavirus outbreak on March 26, 2020.

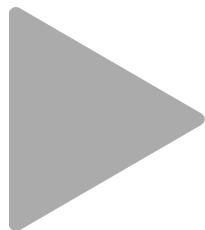


EXHIBIT B



Bay Area concert venue converted into a hospital for COVID-19 11:11 AM

11:41 AM **SF COVID-19 cases near 500, Napa reports 2nd death**

What to know about the risks of restaurant takeout and delivery

8:54 AM **Maps: Global coronavirus cases surpass 1 million**

Bodies of virus victims are left on the streets in Ecuador

SF to prioritize placing some homeless street-dwellers in hotels

SFGATE <https://www.sfgate.com/politics/article/Gavin-Newsom-gun-store-closures-Second-Amendment-15157244.php>


Gov. Gavin Newsom says state won't issue guidance on whether gun stores are essential businesses

By **Eric Ting**, SFGATE Published 3:37 pm PDT, Wednesday, March 25, 2020



IMAGE 1 OF 64

Gov. Gavin Newsom updates the state's response to the coronavirus at the Governor's Office of Emergency Services in Rancho Cordova, Calif., Monday, March 23, 2020.



THE DAILY DAILY NEWSLETTER

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SIGN UP

California Gov. Gavin Newsom will not offer official guidance on whether gun stores can be classified as essential businesses and remain open during the state's shelter-in-place order.

Newsom was asked about the issue after Los Angeles County reversed course on a move to close gun stores amid the spread of coronavirus in the region and the county's shelter-in-place order. L.A. County Sheriff Alex Villanueva initially ordered the closing of gun stores, but legal counsel for the county determined gun stores are essential businesses and must remain open. Villanueva then rescinded the order.

During his Wednesday press conference, Newsom was asked whether the state would issue an official guidance for localities to follow, but Newsom said no guidance would be coming.

"I believe in people's right to bear arms and I believe people are exercising that right," Newsom said of **reports of increased sales at gun stores**. "But I'll defer to the sheriff in this instance, and I'll defer to sheriffs in their respective jurisdictions for that clarification."

Many have questioned whether the forced closure of gun stores runs afoul of the U.S. Constitution's Second Amendment and Supreme Court precedent.

The U.S. Supreme Court held in *District of Columbia v. Heller* (2008) that the Second Amendment guarantees an individual the right to bear arms for self-defense purposes, and multiple groups stated they would bring legal challenges against localities closing gun stores. These groups argue that forcing gun stores to close would violate an individual's right to seek means of self-defense during a crisis.

"There are far more important things that the sheriff can be doing than sending uniformed officers to gun stores telling them they're going to be shut down by force," said Sam Paredes, executive director of Gun Owners of California. "We've got lots of stories from people who said, 'I'd never thought I'd own a firearm, and now I want them more than anything in the world.'"

The full text of the Los Angeles County legal opinion that held gun stores were essential businesses was not released to the public.

The Associated Press contributed to this report.

MORE CORONAVIRUS COVERAGE:

Sign up for 'The Daily' newsletter for the latest on coronavirus **[here](#)**.

- **What you need to know about Bay Area shelter in place orders due to coronavirus**

- 'I cry every morning': Delfina owner heartbroken over closing restaurants, laying off workers
- Boba Guys founder on what it's like to fire 400 people, shutter 17 locations in a single day
- UC San Francisco accepting mask donations
- 'Mom, what's happening to our city?': My apocalyptic bike ride on Valencia with my son
- Legendary SF concert venue Slim's to close
- 401-room W Hotel San Francisco temporarily closes due to lack of demand
- Can you leave your county if a shelter-in-place order is in effect in the Bay Area?
- Can you ride your bike in counties with shelter-in-place orders?
- 'Quarantine shaming': People navigate new social norms
- How 'flatten the curve' works in the coronavirus pandemic
- How a mild case of the novel coronavirus can quickly turn deadly
- Study shows how easily coronavirus can potentially spread
- The two most common symptoms in coronavirus patients
- Does smoking/vaping put you at a higher risk of coronavirus?
- How coronavirus compares to epidemics of the past
- The worst myths and misinformation about coronavirus
- Out of hand sanitizer? Here's how to make your own
- Are children at a lower risk for coronavirus complications?
- Are the elderly at a greater risk for coronavirus complications?
- Why Taiwan's COVID-19 death rate is shockingly low

AP Top Stories April 3 A



Eric Ting is an SFGATE digital reporter. Email: eric.ting@sfgate.com | Twitter: [@_ericting](https://twitter.com/_ericting)

EXHIBIT C

Laura Palmerin

From: Jonathan Eisenman <jonathan.eisenman@lacity.org>
Sent: Saturday, April 25, 2020 3:27 PM
To: Sean Brady
Cc: Benjamin Chapman; Laura Palmerin
Subject: Re: Turner's Operations, Inc. v. Garcetti (No. 20STCP01258) [MA-Interwoven.FID84432]

Thank you.


Jonathan H. Eisenman
Deputy City Attorney | City of Los Angeles

On Fri, Apr 24, 2020 at 6:14 PM Sean Brady <sbrady@michellawyers.com> wrote:

Sorry for the confusion.

We just filed the amended complaint and will be filing the TRO Monday morning with a request to be heard the following day on Tuesday, before the same court as before.

We will note the City's intent to oppose.

<p>Sean Brady Attorney</p>  <p>MICHEL & ASSOCIATES, P.C. Attorneys at Law Environmental - Land Use - Firearms - Employment Law Civil Litigation - Criminal Defense</p>	<p>Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SBrady@michellawyers.com Web: www.michellawyers.com</p> <p>180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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From: Jonathan Eisenman <jonathan.eisenman@lacity.org>
Sent: Tuesday, April 21, 2020 4:52 PM
To: Sean Brady <sbrady@michellawyers.com>
Cc: Benjamin Chapman <benjamin.chapman@lacity.org>; Laura Palmerin <lpalmerin@michellawyers.com>
Subject: Re: Turner's Operations, Inc. v. Garcetti (No. 20STCP01258) [MA-Interwoven.FID84432]

Yes, we will oppose a TRO.

Could you also clarify: You plan to file for a hearing this Friday, or you plan to file one this Friday for hearing on Monday?

On Tue, Apr 21, 2020, 4:48 PM Sean Brady <sbrady@michellawyers.com> wrote:

Thanks for letting us know.

Just to be clear, so I can note it in my declaration. The City will oppose Turner's TRO, correct?

We intend to seek a hearing on our TRO on Friday in the same manner we did the last.

It will be based solely on whether Turner's qualifies for an exemption under the Mayor's order.

Sean Brady Attorney	Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SBrady@michellawyers.com Web: www.michellawyers.com 180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802
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From: Jonathan Eisenman <jonathan.eisenman@lacity.org>

Sent: Tuesday, April 21, 2020 4:42 PM

To: Sean Brady <sbrady@michellawyers.com>

Cc: Benjamin Chapman <benjamin.chapman@lacity.org>; Laura Palmerin <lpalmerin@michellawyers.com>

Subject: Re: Turner's Operations, Inc. v. Garcetti (No. 20STCP01258) [MA-Interwoven.FID84432]

Mr. Brady:

I appreciate the serendipity--and I thank you especially for the heads-up re a second TRO application--but the City's position is unchanged.

Jonathan H. Eisenman

Deputy City Attorney | City of Los Angeles

On Tue, Apr 21, 2020 at 1:09 PM Sean Brady <sbrady@michellawyers.com> wrote:

What timing, Mr. Eisenman.

I was just preparing to notify you that Petitioners intend to file the attached amended complaint. Before doing so, we wanted to provide you the opportunity to review its updated allegations to determine whether the City is willing to change its position on Petitioner Turner's. Specifically, as detailed in the amended complaint, Turner's meets several exceptions to the Mayor's "Safer at Home" order. I direct you to paragraphs 34-43; 64-75; and the Tenth and Eleventh Causes of Action.

Based on this information that the City might not have realized when ordering Turner's to close, we ask that the City immediately lift the order on Turner's to cease operations.

Please let me know the City's position at your earliest convenience. If the City decides to continue to enforce the order against Turner's, we intend to file the amended complaint and seek a renewed TRO based on the new claims.

Feel free to call or email to discuss.

Sincerely,

Sean Brady Attorney	Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SBrady@michellawyers.com Web: www.michellawyers.com 180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802
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From: Jonathan Eisenman <jonathan.eisenman@lacity.org>
Sent: Tuesday, April 21, 2020 12:33 PM
To: Sean Brady <sbrady@michellawyers.com>; Benjamin Chapman <benjamin.chapman@lacity.org>
Subject: Turner's Operations, Inc. v. Garcetti (No. 20STCP01258)

Dear Mr. Brady:

By my calculation, the City's response to your complaint and writ petition is due on May 6.

I'm writing to see whether you plan to amend your complaint before that deadline. If not, will you stipulate to extend the City's deadline to respond by 15 days, to May 21, per California Rules of Court, rule 3.110(d)?

Please let me know at your earliest convenience. Thanks.

Jonathan H. Eisenman

Deputy City Attorney | City of Los Angeles

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

4 I, Laura Palmerin, 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 Boulevard, Suite 200, Long Beach, California 90802.

7 On April 27, 2020, I served the foregoing document(s) described as

8 **DECLARATION OF SEAN A. BRADY IN SUPPORT OF TURNER’S OPERATIONS**
9 **INC.’S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND**
10 **ORDER TO SHOW CAUSE**

11 on the interested parties in this action by placing
12 [] the original
13 [X] a true and correct copy
14 thereof by the following means, addressed as follows:

15 Benjamin F. Chapman, Deputy City Attorney
16 Email: benjamin.chapman@lacity.org
17 Jonathan H. Eisenman, Deputy City Attorney
18 Email: jonathan.eisenman@lacity.org
19 200 North Main Street, 7th Floor, City Hall East
20 Los Angeles, CA 90012
21 Fax No.: (213) 978-0763

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

28 X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
transmission to the emails shown above. Said transmission was reported and completed
without error.

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

Executed on April 27, 2020, at Long Beach, California.



Laura Palmerin