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| 6 | Email: jonathan.eisenman@lacity.org | 105 |
| 7 | Attorneys for Defendants ERIC GARCETTI, MIC MICHEL MOORE, and | HAEL N. FEUER, the CITY OF LOS ANGELES |
| 8 | NUTHE SUBEDIOD COUDT OF | |
| 9 | | F THE STATE OF CALIFORNIA |
| 10 | FOR THE COUNTY | Y OF LOS ANGELES |
| 11 | | |
| 12 | TURNER'S OPERATIONS, INC. et al., | CASE NO: 20STCP01258 |
| 13 | Petitioners & Plaintiffs, | DECLARATION OF CARLOS A. SINGER IN OPPOSITION TO TURNER'S OPERATIONS, INC.'S SECOND EX |
| 14 | V. | PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER |
| 15 | ERIC GARCETTI et al., | AND ORDER TO SHOW CAUSE |
| 16 | | Hearing Date: April 28, 2020 |
| 17 | Respondents & Defendants. | Hearing Time: 8:30 a.m. Department: 1 |
| 18 | Respondents & Detendants. | Department. T |
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| | DECLARATION O | F CARLOS A. SINGER |

DECLARATION OF CARLOS A. SINGER

Carlos A. Singer declares:

1. I am Counsel to the Mayor in the office of Los Angeles Mayor Eric Garcetti. I do not represent any party in litigating this action. I could testify truthfully to the following facts, of which I have personal knowledge.

2. In the face of the emergency caused by the spread of the novel coronavirus, the Mayor's Safer At Home Order prevents people from leaving their homes unless they are engaged in certain specific activities, including certain business operations. Those include, for example, operating a grocery store.

3. From time to time, a business that does not engage in those activities—one that would be regarded as "non-essential"—disagrees with the assessment that it is non-essential. Some such businesses have attempted to persuade the City to reclassify them as essential on the grounds that they sell items that are also sold by businesses that are generally classified as essential.

4. For example, a bookstore is not considered essential. If a bookstore sells snack items by the cash register, the bookstore might argue that it should be considered essential because it sells food, just as a grocery store or a convenience store does. However, that fact, alone, would not constitute a basis for reclassifying the business as essential.

5. This is because, as a threshold matter, the City looks to the general purposes of the business, as suggested by such indicia as its name, permits, advertising, website, and the amount of physical space devoted to a particular product category as opposed to another. In other words, if the purportedly "essential" activity (e.g., selling snacks near the cash register) is minimal and simply incidental to the business's main enterprise (selling books), the incidental activity does not render the business essential under the Order.

6. I understand that the County of Los Angeles, which has an order similar to the Mayor's Safer At Home Order, endeavors to make similar distinctions—for example, by excluding from its list of essential businesses those that "sell only prepackaged non-potentially hazardous food which is incidental to the primary retail business." This language appears in paragraph 13(a) of the County's order, which is available on its website, here:

DECLARATION OF CARLOS A. SINGER

| 1 | http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO_Safer_at_Home_Order_for_Con | | |
|----|---|--|--|
| 2 | trol_of_COVID_04102020.pdf | | |
| 3 | 7. Fundamentally, the City's determinations of what constitute an essential business are | | |
| 4 | driven not by a value judgment, but by the urgent public health interest in minimizing physical | | |
| 5 | interaction among people within the City during a global pandemic. | | |
| 6 | I declare under penalty of perjury according to the laws of the State of California that the | | |
| 7 | foregoing is true and correct. | | |
| 8 | Executed on April 27, 2020 at Los Angeles, California. | | |
| 9 | $\Lambda \mathcal{A}$. | | |
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| 11 | Carlos A. Singer | | |
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| | 2 DECLARATION OF CARLOS A. SINGER | | |
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| 1 | PROOF OF SERVICE | | |
|----|--|--|--|
| 2 | <u>Turner Operations, Inc. et al. v. Eric Garcetti, et al</u> . LASC Case No. 20STCP01258 | | |
| 3 | I, Ava Smith, the undersigned, say: I am over the age of 18 years and not a party to the | | |
| 4 | within action or proceeding. My business address is 200 North Main Street, City Hall East, 6th Floor, Los Angeles, California 90012. | | |
| 5 | On April 28, 2020, I served the foregoing documents described as: DECLARATION OF | | |
| 6 | CARLOS A. SINGER IN OPPOSITION TO TURNER'S OPERATIONS, INC.'S SECOND EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER | | |
| 7 | AND ORDER TO SHOW CAUSE on the interested parties: | | |
| 8 | C.D. Michel | | |
| 9 | | | |
| 10 | MICHEL & ASSOCIATES, P.C. 180 E. Ocean Blvd., Suite 200 | | |
| 11 | Long Beach, CA 90802 Email: <u>cmichel@michellawyers.com</u> | | |
| 12 | Email: <u>sbrady@michellawyers.com</u> | | |
| 13 | [] BY MAIL – I am readily familiar with the practice of the Los Angeles City Attorney's Office for collection and processing of correspondence for mailing with the United States | | |
| 14 | Postal Service. In the ordinary course of business, correspondence is deposited with the | | |
| 15 | United States Postal Service the same day it is placed for collection and mailing. On the date referenced above, I placed a true copy of the above documents(s) in a sealed envelope | | |
| 16 | and placed it for collection in the proper place in our office at Los Angeles, California. | | |
| 17 | [X] BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address ava.smith@lacity.org to the persons at the | | |
| 18 | email addresses listed in the Service List | | |
| 19 | [] BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed | | |
| 20 | envelope for delivery via messenger by Los Angeles City Attorney's Document Services, 200 No. Main Street, 8 th Floor, City Hall East, Los Angeles, CA 90012. | | |
| 21 | BY OVERNIGHT DELIVERY : I served the documents by placing them in an envelope | | |
| 22 | or package addressed to the persons listed above and providing them to UPS Courier for delivery. | | |
| 23 | | | |
| 24 | I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. | | |
| 25 | Dated: April 28, 2020 | | |
| 26 | /s/ Ava Smith | | |
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| | PROOF OF SERVICE | | |
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