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

ADAM BRANDY, et al.,

Plaintiffs,

v.

ALEX VILLANUEVA, et al.,

Defendants.

CASE NO: CV20-02874-AB (SK)
Hon. André Birotte Jr., Ctrm. 7B, 7th Fl., 1st Street
Hon. Steve Kim, Ctrm. 540, 5th Fl., Roybal

DECLARATION OF JONATHAN H. EISENMAN IN SUPPORT OF CITY DEFENDANTS' OPPOSITION TO PLAINTIFFS' APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE

DECLARATION OF JONATHAN H. EISENMAN

Jonathan Eisenman declares:

1. I am licensed to practice law in the State of California and admitted to practice law in the United States District Court for the Central District of California. I am a deputy city attorney for the City of Los Angeles. I serve in this matter, for the purpose of responding to Plaintiffs’ TRO application, as an attorney for Mayor Eric Garcetti and for the City of Los Angeles. I could testify truthfully to the following facts, of which I have personal knowledge.

2. Attached hereto as Exhibit A is a true and correct copy of Mayor Garcetti’s “Safer At Home” Order, issued on March 19, 2020.

3. Attached hereto as Exhibit B is a true and correct copy of Mayor Garcetti’s revised “Safer At Home” Order, issued on April 1, 2020.

4. Attached hereto as Exhibit C is a true and correct copy of a minute order issued on April 1, 2020, by United States District Judge Consuelo Marshall in *McDougall v. County of Ventura*, No. 2:20-cv-02927-CBM-AS.

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

Executed on April 3, 2020 at Los Angeles, California.

/s/ Jonathan H. Eisenman
Jonathan H. Eisenman

EXHIBIT A



ERIC GARCETTI
MAYOR

Public Order Under City of Los Angeles Emergency Authority

Issue Date: March 19, 2020

Subject: SAFER AT HOME

The novel coronavirus pandemic is a global emergency that is unprecedented in modern history. Profoundly impacting our daily lives, it has inspired Angelenos to respond with courage, compassion, wisdom and resolve to overcome this crisis and help each other.

In a short period of time and at an unprecedented scale, residents in every community have embraced urgent social distancing best practices and aggressive hygienic precaution, not just to protect themselves, but to protect others. Angelenos understand with exceptional clarity that there is only one way to get through this difficult moment: together.

The City's recent emergency orders — curtailing large public gatherings; temporarily closing many government facilities; closing theaters, bars and entertainment venues; prohibiting restaurants from serving to dine-in customers while permitting take-out, delivery and drive-thru; and a moratorium on evictions of residential and commercial tenants — have been followed with a willing and generous spirit.

While we have previously taken strong action, now the City must adopt additional emergency measures to further limit the spread of COVID-19.

With this virus, we are safer at home.

Wherever feasible, City residents must isolate themselves in their residences, subject to certain exceptions provided below.

Under the provisions of Section 231(i) of the Los Angeles City Charter and Chapter 3, Section 8.27 of the Los Angeles Administrative Code, I hereby declare the following

orders to be necessary for the protection of life and property in the City of Los Angeles, effective on Thursday, March 19, 2020 at 11:59 PM:

1. Subject only to the exceptions outlined in this Paragraph and Paragraph 5 below, all persons living within the City of Los Angeles are hereby ordered to remain in their homes. Residents of the City of Los Angeles who are experiencing homelessness are exempt from this requirement. The City is working, along with partner government agencies and non-governmental organizations, to make more emergency shelters available for the unhoused residents of our City. City of Los Angeles officials and contracted partners responsible for homelessness outreach shall make every reasonable effort to persuade such residents to accept, if offered, temporary housing or shelter, as the Health Officer of the County of Los Angeles recommends that sheltering individuals will assist in reducing the spread of the virus and will protect the individual from potential exposure by allowing the individual access to sanitation tools. People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.

2. Subject only to the exceptions outlined in this Paragraph and Paragraph 5 below, all businesses within the City of Los Angeles are ordered to cease operations that require in-person attendance by workers at a workplace (including, without limitation, indoor malls and indoor shopping centers, including all stores except for those stores considered essential activities or infrastructure under this Order which are directly accessible to the public from the exterior of the mall or shopping center - the interior of the indoor mall or indoor shopping center shall remain closed to the public). To the extent that business operations may be maintained by telecommuting or other remote means, while allowing all individuals to maintain shelter in their residences, this order shall not apply to limit such business activities.

3. All public and private gatherings of any number of people occurring outside a residence are prohibited, except as to those exempted activities described in this Paragraph and Paragraph 5. This provision does not apply to gatherings within a single household or living unit.

4. All travel, including, without limitation, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit is prohibited, subject to the exceptions in Paragraph 5.

5. Exceptions. People may lawfully leave their residence while this Order is in effect only to engage in the following activities:

(i) First 24 hour allowance. This Order shall not apply, for a 24-hour period following the effective date above, to allow employees and business owners to access to their workplaces to gather belongings or address other administrative needs, so long as social distancing requirements are followed. Such workplaces shall remain closed to the public in accordance with this Order.

(ii) Essential Activities. To engage in certain essential activities, including, without limitation, visiting a health or veterinary care professional, obtaining medical supplies or medication, obtaining grocery items (including, without limitation, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh or frozen meats, fish, and poultry, any other household consumer products and products necessary to maintain the safety and sanitation of residences and other buildings) for their household or to deliver to others, or for legally mandated government purposes. In addition, any travel related to (a) providing care for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons; (b) returning to one's place of residence from outside the City; (c) travelling to one's place of residence located outside the City; (d) compliance with an order of law enforcement or court shall be exempt from this Order; or (e) legally mandated government purposes. Persons engaging in these essential activities shall maintain reasonable social distancing practices. This includes maintaining a distance of at least six-feet away from others, frequently washing hands with soap and water for at least twenty seconds or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

(iii) Outdoor Activities. To engage in outdoor activity and recreation, provided that the individuals comply with social distancing requirements, including, without limitation, walking, hiking, running, cycling; use of scooters, roller skates, skateboards, or other personal mobility devices; or travel in a vehicle with household members to a location where it is possible to walk, hike, run or ride a bike, or operate personal mobility devices, while maintaining social distancing practices. Indoor and outdoor playgrounds for children, except those located within childcare centers, shall be closed for all purposes.

(iv) Work in Support of Essential Activities. To perform work providing essential products and services or to otherwise carry out activities specifically permitted in this Order.

(v) To care for or support a friend, family member, or pet in another household.

(vi) Emergency Personnel. All first responders, gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law enforcement personnel, and related contractors and others working for emergency services providers are categorically exempt from this Order.

(vii) Essential Activities Exempt. Certain business operations and activities are exempt from the provisions of this Order, on the grounds that they provide services that are recognized to be critical to the health and well-being of the City. These include:

(a) All healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, medical and scientific research, laboratories, healthcare suppliers, home healthcare services providers, veterinary care providers, mental and behavioral health providers, substance use

providers, physical therapists and chiropractors, cannabis dispensaries, or any related and/or ancillary healthcare services, manufacturers and suppliers. Healthcare operations does not include fitness and exercise gyms and similar facilities.

(b) Grocery stores, water retailers, certified farmers' markets, farm and produce stands, supermarkets, convenience stores, warehouse stores, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh or frozen meats, fish, and poultry, any other household consumer products (such as construction supplies, cleaning and personal care products). This includes stores that sell groceries and sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences.

(c) Food cultivation, including farming, livestock, and fishing.

(d) Organizations and businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless services agencies).

(e) Newspapers, television, radio, magazine, podcast and other media services.

(f) Gas service stations, auto supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops that operate adjacent to or otherwise in connection with an used or retail auto dealership), bicycle repair shops and related facilities.

(g) Banks, credit unions, financial institutions and insurance companies.

(h) Hardware and building supply stores, and nurseries.

(i) Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other essential activities discussed in this subsection.

(j) Businesses providing mailing and shipping services, including post office boxes.

(k) Educational institutions -- including public and private K-12 schools, colleges, and universities -- for purposes of facilitating distance learning or performing essential functions provided that social distancing of six-feet per person is maintained to the greatest extent possible.

(l) Laundromats, dry cleaners, and laundry service providers.

(m) Restaurants and retail food facilities that prepare and offer food to customers, but only via delivery service, to be picked up, or drive-thru. For those establishments offering food pick-up options, proprietors are directed to establish social distancing practices for those patrons in the queue for pick-up. This includes maintaining a distance of at least six-feet away from others. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students

or members of the public on a pick-up and carry out basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or any other gathering site. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or similar facilities are also exempt from this Order. Social distancing shall be maintained at a distance of at least six-feet away from others

(n) Businesses that supply products needed for people to work from home.

(o) Businesses that supply other essential businesses with the support, services, or supplies necessary to operate, provided that strict social distancing is maintained. This section includes, without limitation, utility companies.

(p) Individuals and businesses that ship or deliver groceries, food, beverages or goods directly to residences or businesses, including rail and trucking.

(q) Airlines, taxis, ride sharing services, and other private transportation services providing transportation services necessary for essential activities and other purposes expressly authorized in this Order.

(r) Home-based care for disabled persons, seniors, adults, or children.

(s) Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals.

(t) Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities.

(u) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:

(1) Childcare must be carried out in stable groups of 12 or fewer ("stable" means that the same 12 or fewer children are in the same group each day).

(2) Children shall not change from one group to another.

(3) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.

(4) Childcare providers shall remain solely with one group of children.

(v) Hotels, motels, shared rental units and similar facilities.

(w) Military/Defense Contractors/FFRDC (Federally Funded Research and Development Centers). For purposes of this Order, essential personnel may leave their residence to provide any service or perform any work deemed essential for national security including, without limitation, defense, intelligence, and aerospace development and manufacturing for the Department of Defense, the Intelligence Community, and NASA and other federal government, and or United States Government departments and agencies. Essential personnel include prime, sub-prime, and supplier contractor employees, at both the prime contract level and any supplier level at any tier, working on federal United States Government contracts, such as contracts for national intelligence and national security requirements.

(viii) Government Employees. This Order does not apply to employees of government agencies working within the course and scope of their public service employment. Employees of the City of Los Angeles shall follow any current or future directives issued by the Mayor.

(ix) Essential Infrastructure. Individuals may leave their residences to provide any services or goods or perform any work necessary to to build, operate, maintain or manufacture essential infrastructure, including without limitation construction of commercial, office and institutional buildings, residential buildings and housing; airport operations, food supply, concessions, and construction; port operations and construction; water, sewer, gas, electrical, oil extraction and refining; roads and highways, public transportation and rail; solid waste collection and removal; flood control and watershed protection; internet and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services); and manufacturing and distribution companies deemed essential to the supply chains of the industries referenced in this Paragraph, provided that they carry out those services and that work in compliance with social distancing practices as prescribed by the Centers for Disease Control and Prevention and the Los Angeles County Department of Public Health, to the extent possible.

6. To the extent that this Order is in conflict with earlier Orders, this Order shall supersede the others.

7. Failure to comply with this Order shall constitute a misdemeanor subject to fines and imprisonment. I hereby urge the Los Angeles Police Department and the City Attorney to vigorously enforce this Order via Sections 8.77 and 8.78 of the Los Angeles Administrative Code.

8. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions or applications of this Order.

This order shall be in place until April 19, 2020, and it may be extended prior to that time.

EXHIBIT B



ERIC GARCETTI
MAYOR

Public Order Under City of Los Angeles Emergency Authority

Issue Date: March 19, 2020 (Revised April 1, 2020)

Subject: SAFER AT HOME

The novel coronavirus pandemic is a global emergency that is unprecedented in modern history. Profoundly impacting our daily lives, it has inspired Angelenos to respond with courage, compassion, wisdom and resolve to overcome this crisis and help each other.

In a short period of time and at an unprecedented scale, residents in every community have embraced urgent social distancing best practices and aggressive hygienic precaution, not just to protect themselves, but to protect others. Angelenos understand with exceptional clarity that there is only one way to get through this difficult moment: together.

The City's recent emergency orders — curtailing large public gatherings; temporarily closing many government facilities; closing theaters, bars and entertainment venues; prohibiting restaurants from serving to dine-in customers while permitting take-out, delivery and drive-thru; and a ban on evictions of residential and commercial tenants who cannot pay rent due to financial impacts caused by COVID-19 — have been followed with a willing and generous spirit.

While we have previously taken strong action, now the City must adopt additional emergency measures to further limit the spread of COVID-19.

With this virus, we are safer at home.

Wherever feasible, City residents must isolate themselves in their residences, subject to certain exceptions provided below. This Order is given because, among other reasons, the COVID-19 virus can spread easily from person to person and it is physically causing property loss or damage due to its tendency to attach to surfaces for prolonged periods of time

Under the provisions of Section 231(i) of the Los Angeles City Charter and Chapter 3, Section 8.27 of the Los Angeles Administrative Code, I hereby declare the following orders to be necessary for the protection of life and property in the City of Los Angeles, effective on Thursday, March 19, 2020 at 11:59 PM:

1. Subject only to the exceptions outlined in this Paragraph and Paragraph 5 below, all persons living within the City of Los Angeles are hereby ordered to remain in their homes. Residents of the City of Los Angeles who are experiencing homelessness are exempt from this requirement. The City is working, along with partner government agencies and non-governmental organizations, to make more emergency shelters available for the unhoused residents of our City. City of Los Angeles officials and contracted partners responsible for homelessness outreach shall make every reasonable effort to persuade such residents to accept, if offered, temporary housing or shelter, as the Health Officer of the County of Los Angeles recommends that sheltering individuals will assist in reducing the spread of the virus and will protect the individual from potential exposure by allowing the individual access to sanitation tools. People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.

2. Subject only to the exceptions outlined in this Paragraph and Paragraph 5 below, all businesses within the City of Los Angeles are ordered to cease operations that require in-person attendance by workers at a workplace (including, without limitation, indoor malls and indoor shopping centers, including all stores except for those stores considered essential activities or infrastructure under this Order which are directly accessible to the public from the exterior of the mall or shopping center - the interior of the indoor mall or indoor shopping center shall remain closed to the public). To the extent that business operations may be maintained by telecommuting or other remote means, while allowing all individuals to maintain shelter in their residences, this Order shall not apply to limit such business activities. A business that fails to cease operation despite not meeting an exception in this Paragraph or Paragraph 5 may be subject to having its water and power services shut off by the Department of Water and Power for not being in compliance with the Order. The Deputy Mayor of Public Safety, or his written designee, may, after engagement with and a written warning issued to a noncompliant business, refer that business in writing to the Department of Water and Power to shut off water and power services pursuant to this order. Upon receiving such a written referral, the Department of Water & Power is authorized to shut off water and power services to the noncompliant business operating in violation of the Order

3. All public and private gatherings of any number of people occurring outside a residence are prohibited, except as to those exempted activities described in this Paragraph and Paragraph 5. This provision does not apply to gatherings within a single household or living unit.

4. All travel, including, without limitation, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit is prohibited, subject to the exceptions in Paragraph 5.

5. Exceptions. People may lawfully leave their residence while this Order is in effect only to engage in the following activities:

~~—— (i) First 24 hour allowance. This Order shall not apply, for a 24-hour period following the effective date above, to allow employees and business owners to access to their workplaces to gather belongings or address other administrative needs, so long as social distancing requirements are followed. Such workplaces shall remain closed to the public in accordance with this Order.~~

(ii) Essential Activities. To engage in certain essential activities, including, without limitation, visiting a health or veterinary care professional, obtaining medical supplies or medication, obtaining grocery items (including, without limitation, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh or frozen meats, fish, and poultry, any other household consumer products and products necessary to maintain the safety and sanitation of residences and other buildings) for their household or to deliver to others, or for legally mandated government purposes. In addition, any travel related to (a) providing care for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons; (b) returning to one's place of residence from outside the City; (c) travelling to one's place of residence located outside the City; (d) compliance with an order of law enforcement or court shall be exempt from this Order; or (e) legally mandated government purposes. Persons engaging in these essential activities are required to maintain reasonable social distancing practices. This includes maintaining a distance of at least six-feet away from others, frequently washing hands with soap and water for at least twenty seconds or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

(iii) Outdoor Activities. To engage in passive outdoor activity and recreation, provided that the individuals comply with social distancing requirements, including, without limitation, walking, running, cycling; use of scooters, roller skates, skateboards, or other personal mobility devices; or travel in a vehicle with household members to a location where it is possible to walk, run or ride a bike, horseback ride or operate personal mobility devices, while maintaining social distancing practices. Indoor and outdoor playgrounds for children, except those located within childcare centers, shall be closed for all purposes. The City of Los Angeles, following the recommendations and directives of the County Department of Public Health, shall cancel its recreational and cultural programming and close its beaches, park trails, trail heads, and park facilities. Parks shall remain open for passive recreational activities while practicing social distancing. "Recreation and cultural programming" refers to recreational and cultural activities, indoor and outdoor sports leagues, aquatics classes, instructional courses, and group sessions on City-owned and operated park land. "Park facilities," which shall be closed to the public, refers to the City's Department of Recreation and Parks facilities, including: skate parks, basketball courts, tennis courts, volleyball courts, baseball fields, Venice Boardwalk (except as necessary to travel to an essential business), Griffith Observatory, Travel Town, Griffith Park train rides and pony rides, the Cabrillo Marine Museum, Sherman Oaks Castle, EXPO Center, and aquatics facilities.

Census Centers located at Recreation and Parks facilities may remain open, provided strict adherence to social distancing practices.

(iv) Work in Support of Essential Activities. To perform work providing essential products and services or to otherwise carry out activities specifically permitted in this Order.

(v) To care for or support a friend, family member, or pet in another household.

(vi) Emergency Personnel. All first responders, gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law enforcement personnel, and related contractors and others working for emergency services providers are categorically exempt from this Order.

(vii) Essential Activities Exempt. Certain business operations and activities are exempt from the provisions of this Order, on the grounds that they provide services that are recognized to be critical to the health and well-being of the City. These include:

(a) All healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, medical and scientific research, laboratories, healthcare suppliers, home healthcare services providers, veterinary care providers, mental and behavioral health providers, substance use providers, physical therapists and chiropractors, cannabis dispensaries, or any related and/or ancillary healthcare services, manufacturers and suppliers. Healthcare operations does not include fitness and exercise gyms and similar facilities.

(b) Grocery stores, water retailers, farm and produce stands, supermarkets, convenience stores, warehouse stores, food banks, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet food and medication supply (but not grooming or training), fresh or frozen meats, fish, and poultry, any other household consumer products (such as construction supplies, cleaning and personal care products). This includes stores that sell groceries and sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences. Certified farmers markets may operate only if they are able to obtain written approval from the Bureau of Street Services (BSS) and only according to the guidelines set forth by BSS.

(c) Food cultivation, including farming, livestock, and fishing.

(d) Organizations and businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless services agencies).

(e) Newspapers, television news, radio, magazine, podcast and journalism.

(f) Gas service stations, auto part supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops that operate adjacent to or otherwise in connection with an used or retail auto dealership), bicycle repair shops and related facilities. No auto dealership may operate, with the exception of its auto service and part stores. Fully automated or self-service car

washes are permitted to operate; car washes that require personnel are not permitted to operate.

(g) Banks, credit unions, financial institutions and insurance companies.

(h) Hardware and building supply stores, day labor centers, and nurseries.

(i) Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, day laborers, landscapers, gardeners, property managers and leasing agents, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other essential activities discussed in this subsection.

(j) Businesses providing mailing and shipping services, boxes and packaging, and post office boxes.

(k) Educational institutions -- including public and private K-12 schools, colleges, and universities -- for purposes of facilitating distance learning or performing essential functions provided that social distancing of six-feet per person is maintained.

(l) Laundromats, dry cleaners, and laundry service providers.

(m) Restaurants and retail food facilities that prepare and offer food to customers, but only via delivery service, to be picked up, or drive-thru. For those establishments offering food pick-up options, proprietors are directed to establish social distancing practices for those patrons in the queue for pick-up. This includes maintaining a distance of at least six-feet away from others. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and carry out basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or any other gathering site. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or similar facilities are also exempt from this Order. Social distancing shall be maintained at a distance of at least six-feet away from others

(n) Businesses that supply or provide storage for products needed for people to work from home.

(o) Businesses that supply other essential businesses with the support, services, or supplies necessary to operate, provided that strict social distancing is maintained. This section includes, without limitation, utility companies.

(p) Individuals and businesses that ship or deliver groceries, food, beverages or goods directly to residences or businesses, including rail and trucking.

(q) Airlines, taxis, ride sharing services, car rental companies, and other private transportation services providing transportation services necessary for essential activities and other purposes expressly authorized in this Order.

(r) Home-based care for disabled persons, seniors, adults, or children.

(s) Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals.

(t) Professional services, such as legal, leasing and real estate transactions, payroll or accounting services, when necessary to assist in compliance

with legally mandated activities. Open houses and in-person showings of housing for lease and sale are prohibited.

(u) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:

- (1) Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
- (2) Children shall not change from one group to another.
- (3) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
- (4) Childcare providers shall remain solely with one group of children.

(v) Hotels, motels, shared rental units and similar facilities.

(w) Military/Defense Contractors/FFRDC (Federally Funded Research and Development Centers). For purposes of this Order, essential personnel may leave their residence to provide any service or perform any work deemed essential for national security including, without limitation, defense, intelligence, and aerospace development and manufacturing for the Department of Defense, the Intelligence Community, and NASA and other federal government, and or United States Government departments and agencies. Essential personnel include prime, sub-prime, and supplier contractor employees, at both the prime contract level and any supplier level at any tier, working on federal United States Government contracts, such as contracts for national intelligence and national security requirements.

(viii) Government Employees. This Order does not apply to employees of government agencies working within the course and scope of their public service employment. Employees of the City of Los Angeles shall follow any current or future directives issued by the Mayor.

(ix) Essential Infrastructure. Individuals may leave their residences to provide any services or goods or perform any work necessary to to build, operate, maintain or manufacture essential infrastructure, including without limitation construction of commercial, office and institutional buildings, residential buildings and housing; airport operations, food supply, concessions, and construction; port operations and construction; water, sewer, gas, electrical, oil extraction and refining; roads and highways, public transportation and rail; solid waste collection, removal, and recycling; flood control and watershed protection; internet and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, phone retail sales and servicing, and web-based services); and manufacturing and distribution companies deemed essential to the supply chains of the industries referenced in this Paragraph, provided that they carry out those services and that work in compliance with social distancing practices as prescribed by the Centers for Disease Control and Prevention and the Los Angeles County Department of Public Health, to the extent possible.

6. To the extent that this Order is in conflict with earlier Orders, this Order shall supersede the others.

7. Failure to comply with this Order shall constitute a misdemeanor subject to fines and imprisonment. I hereby urge the Los Angeles Police Department and the City Attorney to vigorously enforce this Order via Sections 8.77 and 8.78 of the Los Angeles Administrative Code.

8. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions or applications of this Order.

This order shall be in place until April 19, 2020, and it may be extended prior to that time.

EXHIBIT C

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 20-CV-02927-CBM-(ASx) Date March 31, 2020

Title Donald McDougall v. County of Ventura California

Present: The Honorable CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE

YOLANDA SKIPPER
Deputy Clerk

NOT REPORTED
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

NONE PRESENT

NONE PRESENT

**Proceedings: IN CHAMBERS- ORDER RE EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER (DKT. NOS. 9, 10)**

On March 30, 2020, Plaintiff Donald McDougall applied *ex parte* for an order temporarily restraining Defendant County of Ventura, California (the “County”) from ordering the closure of gun stores pursuant to the County’s “Stay Well At Home” order (the “County Order”), dated March 20, 2020. (See Dkt. No. 9-1 (“TRO”) at p. 1:2-4; Dkt. No. 1, Exh. 1 (County Order).) The County Order was issued to “ensure that the maximum number of persons stay in their places of residence to the maximum extent feasible” in order to combat the spread of the COVID-19 virus. (County Order ¶ 1.) To achieve this goal, the County Order requires, amongst other things, persons currently living in Ventura County “to stay at their places of residence,” businesses “to cease all activities at facilities within the County,” and to cease traveling within the County. (Id. ¶¶ 2, 4, 6.) The County Order designates certain activities and industries as “Essential Activities” and “Essential Businesses,” and exempts those categories from its prohibitions. (Id. ¶¶ 7(a)-(g).) The County Order remains effective until April 19, 2020, or until it is “extended, rescinded, superseded, or amended in writing by the Health Officer” of the County. (Id. ¶ 10.) Plaintiff alleges gun stores are categorized “as a non-essential business” and are therefore prohibited from operating.

Plaintiff purchased a handgun from the Camarillo Gun store on or about March 9, 2020. (Dkt. No. 9, Exh. 1 (McDougall Decl.) at ¶ 2.) By law, the purchaser of the firearm must wait 10 days from the time of purchase to pick up the firearm from the store, during which a background check of the purchaser is conducted. See Cal. Penal Code § 16815 (“No firearm shall be delivered ... [w]ithin 10 days of the application to purchase[.]”). The purchaser then has 30 days to retrieve the purchased firearm. See Cal. Penal Code § 28220(f). During the 10-day waiting period for the handgun Plaintiff purchased, Plaintiff alleges the County Order was enacted and required all gun stores in Ventura County to close until further notice. (Id. at p. 1:14-26.) Plaintiff declares he cannot have his background check processed while the gun store is closed, retrieve the handgun he purchased, or purchase additional ammunition or firearms. (McDougall Decl. at ¶¶ 2-3.)

Federal Rule of Civil Procedure 65(b)(1) provides:

The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if: (A) specific facts in an affidavit ... clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). In this case, Plaintiff states that he provided notice to the Defendant by email. Assuming that notice satisfies Rule 65(b), then the Court must analyze the merits of the requested TRO. The standard for issuing a TRO is similar to the standard for issuing a preliminary injunction, and requires the party seeking relief to show (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of injunctive relief, (3) that the balance of equities is in his favor, and (4) that injunctive relief is in the public interest. See *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008).

To evaluate the merits of a Second Amendment claim, the Ninth Circuit "asks whether the challenged law burdens conduct protected by the Second Amendment; and (2) if so, what level of scrutiny should be applied." *Fyock v. Sunnyvale*, 779 F.3d 991, 996 (9th Cir. 2015) (quotation omitted). The Court employs intermediate scrutiny if the challenged regulation does not place a substantial burden on that right. *Id.* at 988-999.

Here, Plaintiff argues strict scrutiny applies because his rights under the Second and Fourteenth Amendments of the United States Constitution have been violated as a result of the County Order because he has not been provided information concerning his background check or commencement of the 10-day waiting period to retrieve his firearm and cannot travel outside Ventura County to purchase a firearm or ammunition elsewhere, thereby burdening his ability to acquire a handgun. Although the County Order may implicate the Second Amendment by impacting "the ability of law-abiding citizens to possess the 'quintessential self-defense weapon' – the handgun," *Fyock*, 779 F.3d at 999 (quoting *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008)), this Court finds that intermediate scrutiny is appropriate because the County Order "is simply not as sweeping as the complete handgun ban at issue in *Heller*." *Id.* The County Order does not specifically target handgun ownership, does not prohibit the ownership of a handgun outright, and is temporary. Therefore, the burden of the County Order on the Second Amendment, if any, is not substantial, so intermediate scrutiny is appropriate.

To survive intermediate scrutiny, the County Order must promote a "substantial government interest that would be achieved less effectively absent the regulation." *Id.* at 1000. Plaintiff does not dispute that mitigation of the spread of the COVID-19 virus is a compelling interest, but offers no evidence or argument disputing the County's determination that its mitigation effort would be as effective without closure of non-essential businesses. Therefore, Plaintiff has not demonstrated he is likely to succeed on the merits of his claim.

Plaintiff also fails to demonstrate that the requested injunctive relief is in the public interest or that the balance of the equities favors the grant of an injunction. As in *Winter*, this case involves "complex, subtle, and professional decisions" by the County, which are entitled to deference. *Id.* at 24. Furthermore, while the public interest is served by protecting Second Amendment rights, the public interest is also served by protecting the public health by limiting the spread of a virulent disease. Under these facts, Plaintiff has not demonstrated that the balance of the equities and public interest favors the injunction.

Therefore, the Court **DENIES** Plaintiff's request for a temporary restraining order.

IT IS SO ORDERED.