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12 *Attorneys for Defendants* ERIC GARCETTI, MICHAEL N. FEUER,
 13 MICHEL MOORE, and the CITY OF LOS ANGELES

14 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 15 **FOR THE COUNTY OF LOS ANGELES**

16 TURNER’S OPERATIONS, INC. et al.,

17 Petitioners & Plaintiffs,

18 v.

19 ERIC GARCETTI et al.,

20 Respondents & Defendants.

CASE NO: 20STCP01258

NOTICE OF RULING ON EX PARTE APPLICATION

Hearing Date: April 28, 2020

Hearing Time: 8:30 a.m.

Department: 1

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Please take notice that petitioner and plaintiff Turner's Operations, Inc.'s ex parte application
3 for a temporary restraining order was heard by the Honorable Mary H. Strobel on April 28, 2020 at
4 8:30 a.m. Sean Brady appeared by CourtCall for petitioner and plaintiff, and Jonathan Eisenman and
5 Benjamin Chapman appeared by CourtCall for respondents and defendants. Following argument, the
6 Court denied the application. The Court's minute order is attached hereto.

7 Respectfully submitted,

8 Dated: April 29, 2020

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10 **MICHAEL N. FEUER**, City Atty.
11 **JAMES P. CLARK**, Chief Deputy City Atty.
12 **KATHLEEN A. KENEALY**, Chief Asst. City Atty.
13 **SCOTT MARCUS**, Civil Litigation Branch Chief
14 **BLITHE S. BOCK**, Asst. City Atty.
15 **BENJAMIN F. CHAPMAN**, Deputy City Atty.
16 **JONATHAN H. EISENMAN**, Deputy City Atty.

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By: /s/ Jonathan H. Eisenman
JONATHAN H. EISENMAN, Deputy City Attorney

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EXHIBIT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 1

20STCP01258

April 28, 2020

**TURNER'S OPERATIONS, INC., A CALIFORNIA
CORPORATION, et al. vs ERIC GARCETTI, IN HIS
OFFICIAL CAPACITY AS MAYOR OF THE , et al.**

8:30 AM

Judge: Honorable Mary H. Strobel

CSR: PRO TEMPORE: Gail Peeples CSR
11458 (BY COURT CALL)

Judicial Assistant: N DiGiambattista

ERM: None

Courtroom Assistant: None

Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Sean A. Brady (Telephonic) (x)

For Respondent(s): Benjamin F Chapman (x) (Telephonic); Jonathan H Eisenman (x)

(Telephonic)

Other Appearance Notes:

NATURE OF PROCEEDINGS: EX PARTE APPLICATION OF PETITIONERS, TURNER'S OPERATIONS, INC., ET AL, FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Pursuant to stipulation, Gail Peeples certified court reporter #11458, is appointed as reporter pro tempore for this matter.

Matter comes on for hearing in Department One and argued.

The ex parte application is denied.

The court notes that this is the second ex parte application in which Petitioners seeks to enjoin the City of Los Angeles from enforcing the Safer at Home Order. The previous application which the court denied sought to enjoin enforcement of the Order as to all gun shops. This application seeks to enjoin enforcement of the Order only as to Turner's Operations based on the argument that the business qualifies under one of the exemptions in the Order.

As to most of the items Turner's states it is selling such as first aid kits, dry goods, safes, and lockboxes, Turner's has not shown incidental sales of these products qualify as providing essential services under the order.

Turner's also argues that its sale of firearms and ammunition to law enforcement officers qualifies under the exemption for performing work providing essential products and services or to otherwise carry out activities specifically exempted (Order para. 5 (iv)), or as a business that

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Courtroom Assistant: None

Deputy Sheriff: None

supplies other essential businesses with the support, service or supplies necessary to operate. (Order para. 5(vii)(o)). However, Turner's provides no evidence it sells directly to law enforcement agencies as opposed to individual officers. Respondents provide a declaration from LAPD attesting that it supplies its officers with necessary firearms and ammunition. Turner's argues that it sells large capacity magazines which can only be sold to law enforcement. Turner's has not shown such sales are necessary to carry out the exempted activity of law enforcement.

For the reasons stated orally at the hearing, the court also finds unpersuasive Turner's arguments of exemption based on its shipping of firearms, populating the firearm data base, receiving guns from those persons no longer qualified to possess them, or acting under its secondhand dealer permit.

Finally, Turner's argues it supplies fishing equipment for commercial and recreational fishing, and fishing is an exempt activity. While Turner's has provided some evidence on this issue, the Ortiz declaration is conclusory. It does not identify any particular commercial fishing enterprise that purchases equipment from the Turner's retail store at issue or quantify sales of fishing equipment at that retail store. Counsel for Petitioners argued at the hearing that the sale of fishing supplies is a significant portion of Turner's business. However, Petitioners provided no evidence to support that assertion, or information regarding sale of fishing equipment at the Turner's store at issue. Turner's has had ample opportunity to provide this evidence, as the Order went into effect in March, Turner's store was order closed on April 2, 2020, and Turner's previous ex parte application for a TRO was denied on April 14, 2020, two weeks ago. Thus while Turner's has shown some likelihood of success on the merits as to this argument, the showing is not particularly strong.

The balance of harms continues to tip sharply in favor of Respondents. The City has shown that it is acting to stem the spread of the COVID-19 virus by reducing the opportunities for it to be spread from one person to another. The gravity of the spread of the virus is documented in the states of emergency declared by the federal, state and local governments.

Petitioners recognize that "preventing the spread of COVID-19 is undeniably a critical and urgent matter." Harm to Petitioners is less weighty. Especially where Petitioners seek to enjoin the operation of an emergency order adopted to protect health and safety, Petitioners bear a heavy burden to show the balance of harms tips in their favor. Petitioners have not met this burden. Petitioner Turners operates 28 retail gun stores, only one of which is affected by the

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11458 (BY COURT CALL)

Judicial Assistant: N DiGiambattista

ERM: None

Courtroom Assistant: None

Deputy Sheriff: None

Safer at Home Order. Turners has not shown its retail operation are irreparably harmed by a temporary shut down of one of its retail stores.

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The ex parte application is denied.

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Counsel for respondent is to give notice.

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PROOF OF SERVICE

Turner Operations, Inc. et al. v. Eric Garcetti, et al.

LASC Case No. 20STCP01258

I, Maria Cruz, the undersigned, say: I am over the age of 18 years and not a party to the within action or proceeding. My business address is 200 North Main Street, City Hall East, 7th Floor, Los Angeles, California 90012.

On April 29, 2020, I served the foregoing documents described as: **NOTICE OF RULING ON EX PARTE APPLICATION** on the interested parties:

C.D. Michel
Sean A. Brady
Matthew D. Cubeiro
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802
Email: cmichel@michellawyers.com
Email: sbrady@michellawyers.com

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 Postal Service. In the ordinary course of business, correspondence is deposited with the 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 and placed it for collection in the proper place in our office at Los Angeles, California.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address maria.cruz@lacity.org to the persons at the email addresses listed in the Service List

BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed envelope for delivery via messenger by Los Angeles City Attorney’s Document Services, 200 No. Main Street, 8th Floor, City Hall East, Los Angeles, CA 90012.

BY OVERNIGHT DELIVERY: I served the documents by placing them in an envelope or package addressed to the persons listed above and providing them to UPS Courier for delivery.

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

Dated: April 29, 2020

/s/ Maria Cruz