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July 7, 2020

**VIA E-MAIL & U.S. MAIL**

George M. Lee  
Seiler Epstein, LLP  
275 Battery Street, Suite 1600  
San Francisco, CA 94111

Re: *Brandy, et al. v. Alex Villanueva, et al.*  
U.S.D.C. Case No. 2:20-cv-02874-AB-SK

Dear Mr. Lee:

This letter constitutes a further attempt to meet and confer with Plaintiffs as to the County of Los Angeles Defendants' prospective motion for judgment on the pleadings as to the First Amended Complaint (ECF No. 9), pursuant to Central District Local Rule 7-3 and FRCP, Rule 12(c).

The motion for judgment on the pleadings will seek the dismissal with prejudice of all of Plaintiffs' claims against the County of Los Angeles, Alex Villanueva and Barbara Ferrer. There are no legitimate grounds, as a matter of law, for the requested declaratory and injunctive relief under any constitutional theory:

- (1) The Court lacks subject matter jurisdiction because Plaintiffs do not have standing to pursue the declaratory and injunctive relief sought due to the absence of either any actionable ongoing injury or any actionable injury that is likely to recur. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983); *see also Langer v. McKelvy*, 2015 WL 13447522, at \*1 (C.D. Cal. Sept. 24, 2015) ("A party may move for judgment on the pleadings based on lack of subject matter jurisdiction.") (citing *U.S. v. In re Seizure of One Blue Nissan Skyline Auto., and One Red Nissan Skyline*, 683 F.Supp.2d 1087, 1089 (C.D. Cal. 2010)); *Assoc. of Med. Colls. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000) (plaintiff has the burden of establishing the court's subject matter jurisdiction);

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- (2) Plaintiffs cannot show the required likelihood of success because the governmental objectives at issue are indisputably important and the pertinent County orders are “clear and explicit” as underscored by the Court’s order denying Plaintiffs’ application for a temporary restraining order (*see* ECF No. 29 at pp. 5-6); and
- (3) Plaintiffs’ claims are moot as a matter of law because the County of Los Angeles’ public health orders have not mandated the closure of firearms retailers as part of the County’s response to the COVID-19 pandemic, and firearms retailers located within the County have been and continue to operate. *See, e.g.* Reopening Safer at Work in the Community for Control of COVID-19 Moving the County of Los Angeles into Stage 3 of California’s Pandemic Resilience Roadmap (Issued on June 18, 2020) (a copy of which is attached hereto); *City of Erie v. Pa’s A.M.*, 529 U.S. 277, 287 (2000) (“A case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.”).

Plaintiffs’ claims should be dismissed with prejudice under each of these independent grounds. Additionally, Defendants Villanueva and Ferrer, who are sued in their official capacities only, should be dismissed because Plaintiffs have also sued the County of Los Angeles. *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985); *Talib v. Nicholas*, 2015 WL 456546, \*7 (C.D. Cal. Feb. 2, 2015) (official capacity claims against the defendant deputies must be treated as a claim against the LASD).

Accordingly, absent Plaintiffs’ agreement to dismiss the County of Los Angeles Defendants from this action with prejudice, these Defendants will move for judgment on the pleadings on the grounds articulated above. I am available to discuss this matter with you the rest of this week, as well as July 13-14. Please let me know on which date and time you are available to speak with me during this time period.

Thank you, and I look forward to hearing from you.

Very truly yours,

LAWRENCE BEACH ALLEN & CHOI, PC



Jin S. Choi