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Ghost Firearms, LLC, Thunder Guns, LLC,
Ryan Beezley and Bob Beezley,
and MFY Technical Solutions, LLC

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

FRANCISCO GUDINO CARDENAS, an
individual,

Plaintiff,

v.

GHOST GUNNER INC., d/b/a
GHOSTGUNNER.NET;

DEFENSE DISTRIBUTED d/b/a
GHOSTGUNNER.NET

CODY WILSON d/b/a GHOSTGUNNER.NET

BLACKHAWK MANUFACTURING GROUP
INC., d/b/a 80PERCENTARMS.COM;

RYAN BEEZLEY and BOB BEEZLEY, d/b/a
RBTACTICALTOOLING.COM;

GHOST AMERICA LLC, d/b/a
GHOSTGUNS.COM;

GHOST FIREARMS LLC, d/b/a GRID
DEFENSE and GHOSTRIFLES.COM;

JUGGERNAUT TACTICAL INC., d/b/a
JTACTICAL.COM;

MFY TECHNICAL SOLUTIONS LLC, d/b/a
5DTACTICAL.COM;

TACTICAL GEAR HEADS LLC, d/b/a 80-
LOWER.COM; AR-

Case No. 30-2019-0111797-CU-PO-CJC

*Assigned for all purposes to the Honorable
Gregory H. Lewis*

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS' UNOPPOSED EX
PARTE APPLICATION TO SET A
CASE MANAGEMENT CONFERENCE
AND STAY PROCEEDINGS**

Hearing Date: October 29, 2020

Hearing Time: 9:00 a.m. **via appearance**

Department: C26

by Court Call only

1 15LOWERRECEIVERS.COM; and
2 80LOWERJIG.COM;
3 JAMES TROMBLEE, JR., d/b/a
4 USPATRIOTARMORY.COM;
5 INDUSTRY ARMAMENT INC., d/b/a
6 AMERICANWEAPONSCOMPONENTS.COM;
7 THUNDER GUNS LLC, d/b/a
8 THUNDERTACTICAL.COM;
9 DOES 1-100, Inclusive,
10 Defendants.

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 **1. INTRODUCTION**

13
14 Defendants Ghost Firearms, LLC; Thunder Guns, LLC; Ryan Beezley and Bob Beezley;
15 and MFY Technical Solutions, LLC (“Defendants”), concurrently file with this Court a Motion to
16 Permit the Filing of a Petition for Coordination (“Motion”). They now concurrently bring this ex
17 parte application to stay the proceedings in this matter pending this Court’s setting of a case
18 management conference. Such a stay will both promote the interests of justice and judicial
19 efficiency.

20 Defendants take the position in their Motion that the instant *Cardenas* matter and *Troy*
21 *McFadyen, et al v. Ghost Gunner, Inc., et al*, Case No. CIV DS 1935422, which is pending in the
22 Superior Court of San Bernardino, are effectively identical and should therefore be coordinated
23 (or, in the alternative, if this Court determines the matters are not complex, the *McFadyen* action
24 should be transferred and consolidated with the instant *Cardenas* action.)¹ The related *McFadyen*
25 action has been stayed until December 4, 2020, the date currently set for its first case management
26 conference. (Brady Decl., ¶4). Because the instant matter has not also been stayed, Defendants

27
28 ¹ Copies of each complaint, which were also both filed on the same day, are attached to the
supporting Declaration of Sean A. Brady as Exhibits A and C, respectively.

1 will likely be forced to file responsive pleadings and motions to strike before their Motion will be
2 considered by this Court. Those filings could prove unnecessary or duplicative should the Court
3 ultimately agree that the cases should be coordinated or consolidated into a single court.

4 As Defendants will establish below, this Court has the authority to stay these proceedings
5 in their entirety pending a case management conference, just as the San Bernardino Superior
6 Court did in the *McFadyen* action. This Court should do so both to preserve judicial resources and
7 also to further justice. For it would be inequitable to force Defendants to respond to these
8 complaints without first allowing them the opportunity to make their case for coordinating or
9 consolidating the two related cases into a single court to avoid such duplicative litigation. In
10 addition to Defendants, counsel for Defendants has confirmed with five of the remaining 9
11 defendants to both of these matters that none of them objects to the coordination of these matters,
12 and they also do not oppose this application (Brady Decl., ¶9.). The remaining defendants have
13 been unreachable, despite attempts by Defendants' counsel to contact them. (Brady Decl., ¶9.)
14 But none has expressed opposition to this application or Defendants' Motion. (Brady Decl., ¶9.)
15 In the instant matter, Counsel for Plaintiff Francisco Cardenas has confirmed that Plaintiff does
16 not oppose this application insofar as it requests a stay pending a case management conference,
17 though Plaintiff makes no concessions as to whether coordination/consolidation is proper. (Brady
18 Decl., ¶8.)

19 2. ARGUMENT

20 A. *A case management conference should be set, and a stay issued pending that*
21 *conference.*

22 Upon its own motion or at the request of a party, a court may schedule additional case
23 management conferences to be held at any time. (Cal Rules of Court, Rule 3.723.) And "trial
24 courts generally have the inherent power to stay proceedings in the interests of justice and to
25 promote judicial efficiency." (*Freiberg v. City of Mission Viejo* (1995) 33 Cal.App.4th 1484,
26 1489.) Until Defendants' Motion (requesting coordination or transfer and consolidation with the
27 related *McFadyen* matter) is decided, this Court should set a case management conference and
28

1 stay the case at least until that conference.²

2 Defendants believe there can be no doubt that efficiency would be served by deciding
3 whether to coordinate or consolidate the two related *Cardenas* and *McFadyen* matters first, before
4 they are too far along into litigation and significant work is needlessly performed by all parties
5 and the courts. Further, the interests of justice are not served when multiple courts may come to
6 different conclusions on motions, trial, and possible appeals. The California Supreme Court has
7 held that courts should exercise their discretion to stay “substantially identical” actions. (*Thomson*
8 *v. Continental Ins. Co.* (1967) 66 Cal. 2d 738, 746.) “In exercising its discretion the court should
9 consider the importance of discouraging multiple litigation designed solely to harass an adverse
10 party, and of avoiding unseemly conflicts with the courts of other jurisdictions.” (*Id.* at pp. 746-
11 747.) While *Thomson* involved a California state action and a federal case, the same principle
12 applies here, as the actions are effectively identical, involve identical defendants, and are pending
13 in different courts within this state without any apparent justification for being in separate venues,
14 as none of the plaintiffs reside in either nor did the incident at the center of this case occur in
15 either.

16 As previously stated, the *McFadyen* action has already been stayed pending its initial case
17 management conference, which is now scheduled for December 4, 2020. That stay was put in
18 place to “assist the court and the parties in managing this case through the development of an
19 orderly schedule for briefing and hearings on any procedural or substantive challenges to the
20 complaint and other issues that may assist in the orderly management of this case.” (Brady Decl.,
21 ¶4). For the same reasons, and based on the authority cited above, this Court should likewise
22 schedule a case management conference for after December 4, 2020 and stay this matter in its
23 entirety until that conference takes place to avoid the parties having to prepare filings before the
24 question of coordination or consolidation is resolved. Doing so will allow the parties to have
25 clarity on their responsibilities moving forward.

26
27 ² A request for stay pending the coordination petition is also included in the filed Motion to
28 Permit Filing a Petition for Coordination. This Court may also select to simply stay this case
pending a ruling on that motion, should it prefer that route.

B. Notice was provided

Pursuant to California Rules of Court 3.1203 and 3.1204, notice of this application was provided on October 15, 2020 to counsel for Plaintiff Francisco Cardenas. The parties conferred telephonically on October 26, 2020, and counsel for Plaintiff confirmed Plaintiff would not be opposing this application insofar as it requests a stay pending a case management conference, though Plaintiff makes no concessions as to whether coordination/consolidation is proper. (Brady Decl., ¶8.) Likewise, several of the other defendants in this matter have expressed non-opposition to this application and none of the remaining defendants have stated a position. (Brady Decl., ¶9.)

CONCLUSION

For the above-stated reasons, Defendants Ghost Firearms, LLC, Thunder Guns, LLC, Ryan Beezley and Bob Beezley, and MFY Technical Solutions, LLC respectfully request that this Court set a case management conference on the first date it has available after December 4, 2020, and stay this proceeding in its entirety pending that conference (including all responsive pleading and special motion to strike deadlines). If the stay is granted, it should continue in effect until otherwise ordered by this Court, to allow time for the motion for coordination to be ruled on.

Dated: October 28, 2020

MICHEL & ASSOCIATES, P.C.

s/ Sean A. Brady

Sean A. Brady

Attorney for Defendants

Ghost Firearms, LLC, Thunder Guns, LLC,

Ryan Beezley and Bob Beezley,

and MFY Technical Solutions, LLC

STATE OF CALIFORNIA
COUNTY OF ORANGE

On October 28, 2020, I served the foregoing document(s) described as:

on the interested parties in this action by placing
☐ the original
☒ a true and correct copy
thereof by the following means, addressed as follows:

Ben Rosenfeld
115 ½ Bartlett Street
San Francisco, CA 94110
ben.rosenfeld@comcast.net

Executed on October 28, 2020, at Long Beach, California.


Laura Palmerin