

1 C.D. Michel – SBN 144258  
2 Anna M. Barvir – SBN 268728  
3 Matthew D. Cubeiro – SBN 291519  
4 MICHEL & ASSOCIATES, P.C.  
5 180 E. Ocean Boulevard, Suite 200  
6 Long Beach, CA 90802  
7 Telephone: (562) 216-4444  
8 Facsimile: (562) 216-4445  
9 Email: cmichel@michellawyers.com

10 Attorneys for Plaintiff Ana Patricia Fernandez

11  
12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ANA PATRICIA FERNANDEZ, an  
15 individual,

16 Plaintiff,

17 v.

18 LOS ANGELES COUNTY, THE LOS  
19 ANGELES COUNTY SHERIFF'S  
20 DEPARTMENT, WYATT WALDRON,  
21 an individual, JOHN ROTH, an  
22 individual, SUSAN O'LEARY BROWN,  
23 an individual, ALEX VILLANUEVA, in  
24 his Official Capacity as Sheriff of Los  
25 Angeles County; and DOES 1-10,

26 Defendants.

Case No.: 2:20-cv-09876 DMG (PDx)

**NOTICE OF CONSTITUTIONAL  
CHALLENGE OF STATUTE**

1 Under Rule 5.1(a)(1) of the Federal Rules of Civil Procedure, Plaintiff Ana Patricia  
 2 Fernandez, through her counsel, respectfully submits this Notice of Constitutional  
 3 Challenge of Statute. Plaintiff is challenging the constitutionality of Los Angeles County's  
 4 specific application of a state statute through the adoption and enforcement of a local  
 5 ordinance. Plaintiff thus contends that Rule 5.1(a) does not apply here. But, in an  
 6 abundance of caution, Plaintiff hereby submits this notice.

7 This action was filed on October 27, 2020. The Complaint, Summons, and other  
 8 case initiating documents were served on Defendant Los Angeles County on November 4,  
 9 2020, on Defendants Los Angeles County Sheriff's Department ("LASD") and Sheriff  
 10 Alex Villanueva on November 5, 2020, on Defendant Susan O'Leary Brown on  
 11 November 12, 2020, on Defendant John Roth on November 24, 2020, and on Defendant  
 12 Wyatt Waldron on November 25, 2020.

13 Through this action, Plaintiff challenges the constitutionality of California Penal  
 14 Code section 33880(a) *as applied* to Plaintiff by way of Defendants' adoption and  
 15 enforcement of a \$54-per-firearm fee to claim and recover firearms seized and held by the  
 16 LASD. So, in compliance with Rule 5.1(a)(2), Plaintiff served California Attorney  
 17 General Xavier Becerra with a copy of this notice, as well as the summons and complaint,  
 18 by certified mail on December 9, 2020. A true and correct copy of the Certificate of  
 19 Service is attached as Exhibit A.

20 Pursuant to Rule 5.1(c), the Attorney General has 60 days from receipt of this  
 21 Notice to intervene in this matter, unless the Court sets a later time.

22 Dated: December 9, 2020

MICHEL & ASSOCIATES, P.C.

*s/ Anna M. Barvir*

Anna M. Barvir

*Counsel for Plaintiff Ana Patricia  
 Fernandez*

# **EXHIBIT A**

**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *Fernandez, v. Los Angeles County, et al.*  
Case No.: 2:20-cv-09876 DMG (PDx)

IT IS HEREBY CERTIFIED THAT:

On December 9, 2020, I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

1. **NOTICE OF CONSTITUTIONAL CHALLENGE OF STATUTE**
2. **SUMMONS IN A CIVIL ACTION**
3. **COMPLAINT FOR DECLARATORY RELIEF AND DAMAGES**

on the following party by the following means:

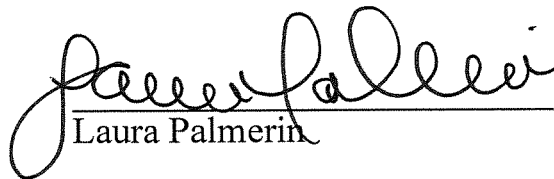
By electronic mail, as follows: I served a true and correct copy by electronic transmission. Said transmission was reported and completed without error.

By Certified Mail, as follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid thereon for certified mail, return receipt requested at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Attorney General of California  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550  
[AGelectronicsservice@doj.ca.gov](mailto:AGelectronicsservice@doj.ca.gov)

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

Executed December 9, 2020.

  
Laura Palmerin

**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *Fernandez, v. Los Angeles County, et al.*  
Case No.: 2:20-cv-09876 DMG (PDx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**NOTICE OF CONSTITUTIONAL CHALLENGE OF STATUTE**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Henry Patrick Nelson  
[nelson-fulton@nelson-fulton.com](mailto:nelson-fulton@nelson-fulton.com)

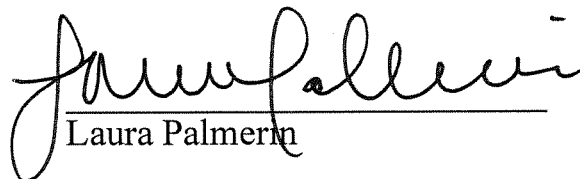
Amber A. Logan  
[amberlogan@nelson-fulton.com](mailto:amberlogan@nelson-fulton.com)

Nelson & Fulton  
3435 Wilshire Blvd., Suite 2800  
Los Angeles, CA 90010

*Attorneys for Defendants Los Angeles County,  
The Los Angeles County Sheriff's Department,  
Alex Villanueva, and Susan O'Leary Brown*

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

Executed December 9, 2020.

  
Laura Palmer

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Attorney General of California  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550



9590 9402 5380 9189 4458 06

**2. Article Number (Transfer from service label)**

7019 0700 0001 5624 4983

**COMPLETE THIS SECTION ON DELIVERY****A. Signature**

X

**B. Received by (Printed Name)**

☐ Agent

☐ Addressee

**C. Date of Delivery**

**D. Is delivery address different from item 1?** ☐ Yes  
If YES, enter delivery address below: ☐ No

**3. Service Type**

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation®
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

**USPS TRACKING #**

9590 9402 5380 9189 4458 06

**United States  
Postal Service**

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Michel & Associates, P.C.  
Attn.: Laura Palmerin  
180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802

DOC # 2143015

