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7 MFY Technical Solutions, LLC

8 JUDICIAL COUNCIL OF CALIFORNIA
9 CHAIR OF THE JUDICIAL COUNCIL

11 FRANCISCO GUDINO CARDENAS, an
individual,

12 Plaintiff,

13 v.

14 GHOST GUNNER INC., d/b/a
15 GHOSTGUNNER.NET; et al.,

16 Defendants.

Judicial Council Coordination Proceeding

JCCP NO. 5167

Orange County Superior Court Case No. 30-
2019-01111797-CU-PO-CJC

San Bernardino Superior Court Case No. CIV
DS 1935422

**REPLY TO PLAINTIFF CARDENAS’
RESPONSE TO PETITION FOR
COORDINATION OF ACTIONS**

18 TROY MCFADYEN, in his Individual
Capacity, and as Heir at Law and Successor
19 in Interest to MICHELLE MCFADYEN,
Deceased; et al.,

20 Plaintiffs,

21 v.

22 GHOST GUNNER INC., d/b/a
23 GHOSTGUNNER.NET; et al,

24 Defendants.

1 not intend to argue that Plaintiffs do not have an explanation for their preference. Rather,
2 Petitioners were merely clarifying that they could not represent Plaintiffs’ reasons to this Council,
3 presuming that Plaintiffs would make their reasons known if they so wished.

4 That said, Mr. Cardenas confuses some critical, albeit nuanced, points about arguments
5 made in the Motion by claiming that “defendants” have changed their minds. As an initial matter,
6 the arguments were made by Petitioners, a subset of the defendants in this matter, not all
7 defendants. No defendant other than Petitioners made any representation in the Motion about
8 venue. But more importantly, Mr. Cardenas omits a key portion of Petitioners’ statement in the
9 Motion. The full sentence is “*Should the matters not be deemed by this Court to be complex, then*
10 *Orange County is the appropriate venue because that is where most of the California-based*
11 *defendants are located.*”² (Plaintiff’s Resp., p. 2; Motion, pp. 8-9, [emphasis added].) Context is
12 important here. As the title of the Motion indicates, Petitioners were primarily requesting
13 *coordination*, which requires that both matters be complex. (Code Civ. Proc., § 404.) In case the
14 *Cardenas* court did not deem the matter complex, Petitioners *alternatively* requested
15 *consolidation*, which is the process for non-complex matters. (Cal Rules of Court, Rule 3.500,
16 subd. (a).) Petitioners were merely noting that Orange County would be the appropriate venue *for*
17 *consolidation* in the case the *Cardenas* court did not deem the matter complex because the
18 *Cardenas* court would only have authority to consolidate the cases in Orange County.

19 At the time they filed the Motion, Petitioners were focused on getting the two identical
20 matters into a single court as expeditiously as possible before either case progressed too far. The
21 *McFadyen* matter had been stayed, which prevented Petitioners from filing their motion to permit
22 coordination in San Bernardino, (Motion, pp. 4-5), and responsive pleading deadlines were
23 approaching in *Cardenas*. Petitioners thus believed their only option at the time was to file their
24 Motion in *Cardenas*. And Petitioners could only request venue where they were seeking
25 *consolidation*, i.e., Orange County.

26
27 ² Petitioners were incorrect about the majority of California-based defendants being located in
28 Orange County. As indicated in the petition, there are an equal number of defendants, three,
located in Orange and San Bernardino Counties. (Petition for Coordination, p. 10.)

1 As Mr. Cardenas notes, the *Cardenas* Court did deem the matter complex, meaning
2 consolidation was no longer on the table. Petitioners had not expressed a preference of venue
3 should the matters be *coordinated*. In fact, in the very sentence following the portion of the one
4 Mr. Cardenas quotes, Petitioners expressly said that “[i]f the matters are complex, . . . the Judicial
5 Council will be well suited to determine the appropriate venue to which the coordinated matter
6 should be assigned.” (Motion, pp. 8-9.) As such, Petitioners have since been able to evaluate
7 which venue made more sense in the *coordination* context. Along with the other defendants, who
8 had not taken a previous position on venue, they all agreed that San Bernardino County is the
9 better venue for the reasons laid out in the petition.

10 **Second**, it is a fact that “the *McFadyen* matter has already been assigned to a complex
11 department in San Bernardino.” (Brady Decl., ¶¶ 14-15.) Mr. Cardenas accuses Petitioners of
12 misleading this Council by pointing that out because they are supposedly “downplaying” the
13 Orange County Superior Court’s order deeming the *Cardenas* matter as complex. (Plaintiff’s
14 Resp., p. 2.) But already being assigned to a complex department is not the same as being deemed
15 complex. Currently, the *Cardenas* matter is not assigned to a complex department in the Orange
16 County Superior Court. (Brady Decl., ¶¶ 14-15.) Petitioners’ entire point in suggesting that San
17 Bernardino is the better venue is that the *McFadyen* matter is already assigned to a judge in the
18 complex department and the parties would not have to start from scratch. Hon. Judge Cohn
19 presiding in the complex department in San Bernardino has already received the complaint and
20 held two Case Management Conferences for which he has received case management statements
21 from the parties. (Brady Decl., ¶ 5.) As such, he is already, at least somewhat, familiar with the
22 nature of the action. Petitioners do not see how removing it to a new judge in Orange County
23 would further the interests of the parties or judicial economy. Mr. Cardenas makes no arguments
24 for how it would.

25 **B. Mr. Cardenas Makes No Argument for Why Orange County Is the Better**
26 **Venue**

27 While Mr. Cardenas makes a compelling case for why Plaintiffs did not previously
28 explain their reasons for preferring Orange County as the venue should these matters be

1 coordinated, he does not now make any substantive argument for why it is the better venue. He
2 merely points to Petitioners' argument in the Motion that Orange County is a proper venue for
3 *consolidation* (different from *coordination*) and that the *Cardenas* matter will be transferred to a
4 complex department there. But neither of those points addresses why Orange County is the better
5 venue now that we are discussing coordination.

6 * * * *

7 This dispute over each others' position on the better venue for coordination likely could
8 have been avoided through meeting and conferring. Counsel for Petitioners regrets that oversight
9 and apologizes to this Council for the problems failing to do so appears to have caused. That,
10 however, does not change Petitioners' view, and that of every other defendant that has weighed
11 in, that San Bernardino County is the better venue.

12 **CONCLUSION**

13 For the foregoing reasons, Petitioners respectfully request that the Judicial Council
14 coordinate the *McFadyen* and *Cardenas* matters, as all parties who have weighed in agree should
15 be done, and assign the coordinated matter to the San Bernardino County Superior Court.
16 Petitioners do not oppose Mr. Cardenas's request for a hearing on the subject of venue, should
17 this Council find one necessary.

18 Dated: February 12, 2021

MICHEL & ASSOCIATES, P.C.

19 

20 _____
21 Sean A. Brady
22 Attorney for Petitioners
23 Ghost Firearms, LLC, Thunder Guns, LLC,
24 Ryan Beezley and Bob Beezley,
25 and MFY Technical Solutions, LLC

1 **PROOF OF SERVICE**

2 I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County,
3 California. I am over the age eighteen (18) years and am not a party to the within action. My
4 business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

5 On February 12, 2021, I served the foregoing document(s) described as:

6 **REPLY TO PLAINTIFF CARDENAS' RESPONSE TO PETITION FOR
7 COORDINATION OF ACTIONS**

8 on the interested parties in this action by placing
9 [] the original
10 [X] a true and correct copy
11 thereof by the following means, addressed as follows:

12 Please see Attached Service List.

13 X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
14 transmission. Said transmission was reported and completed without error.

15 X (STATE) I declare under penalty of perjury under the laws of the State of California that
16 the foregoing is true and correct.

17 Executed on February 12, 2021, at Long Beach, California.



18 _____
19 Laura Palmerin

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