Case 3:21-cv-01676-BAS-BGS Document 9 Filed 09/28/21 PageID.127 Page 1 of 17

1 2 3 4 5	RAYMOND M. DIGUISEPPE CA State Bar No. 228457 THE DIGUISEPPE LAW FIRM, P.C. 4320 Southport-Supply Road Suite 300 Southport, NC 28461 P: 910-713-8804	JOHN W. DILLON CA State Bar No. 296788 DILLON LAW GROUP, APC 2647 Gateway Rd. Suite 105 #255 Carlsbad, CA 92009 P: 760.642.7150
6 7 8 9 10 11 12 13	E: <u>law.rmd@gmail.com</u> WILLIAM SACK* PA STATE BAR NO. 325863 FIREARMS POLICY COALITION 5550 Painted Mirage Road Suite 320 Las Vegas, NV 89149-4584 P: (916) 596-3492 E: <u>wsack@fpclaw.org</u> * <i>App. Pro Hac Vice Forthcoming</i> <i>Attorneys for Plaintiffs</i>	E: j <u>dillon@dillonlawgp.com</u>
14	UNITED STATES I	DISTRICT COURT
15	SOUTHERN DISTRIC	CT OF CALIFORNIA
 16 17 18 19 20 21 22 23 24 25 26 27 28 	JAMES FAHR; DESIREE BERGMAN; COLIN RUDOLPH; SAN DIEGO COUNTY GUN OWNERS PAC; and FIREARMS POLICY COALITION, INC., Plaintiffs, v. CITY OF SAN DIEGO, CALIFORNIA; and DAVID NISLEIT, in his official capacity as Chief of Police of San Diego City, California, Defendants.	Case No.: 21-cv-1676-BAS-BGS
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PLAINTIFFS' MOTION TO RENEW APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ALTERNATIVE MOTION FOR PRELIMINARY INJUNCTION UPON COMPLETION OF SERVICE

4 Plaintiffs James Fahr, Desiree Bergman, Colin Rudolph, San Diego County 5 Gun Owners PAC, and Firearms Policy Coalition, Inc. ("Plaintiffs"), by and through 6 7 their attorneys, hereby respectfully move to renew their Motion for a Temporary 8 Restraining Order or, Alternatively, Preliminary Injunction ("Motion for a TRO"; 9 ECF No. 2) and application for an order shortening the time for this Court to hear that 10 Motion ("Motion to Shorten"; ECF No. 5) (collectively "Motions"). The renewed 11 12 motion is brought on the grounds that Plaintiffs have now completed service of both 13 Motions on all Defendants in accordance with this Court's Order, dated September 27, 14 15 2021, denying the Motions "without prejudice to their renewal with the appropriate 16 showing that proper service has been made upon Defendants" (ECF No. 6, at p. 4). 17 Proof of such service is attached hereto as part of the renewed Motions, Exhibits A-D, 18 19 showing the service was completed on September 27, 2021, by 10:10 a.m. Further, 20 Plaintiffs have personally served both Defendants with the instant motion to renew the 21 Motions this morning ("Renewal Motion"), as evidenced by the proofs of service 22 23 attached hereto as Exhibits E and F.

In addition to the reasons already outlined in support of the Motions, Plaintiffs
 emphasize that expedited proceedings on the requested relief are necessary to ensure
 sufficient time for this Court to fully consider and rule upon the request before the
 Ordinance at issue becomes effective on October 23, 2021. Should the Court find
 Plaintiffs' MOTION TO RENEW APPLICATION FOR T.R.O. AND ALTERNATIVE MOTION FOR PRELIM. INJUNCTION

Plaintiffs have a likelihood of success on their claims, the requested preliminary 1 2 injunctive relief will be necessary to maintain the status quo and avert the irreparable 3 harm that would occur pending adjudication of the merits, as Plaintiffs and all those 4 similarly situated would otherwise be forced to dispossess themselves of the property 5 6 targeted by the Ordinance (i.e., all "unfinished frames or receivers" and any other 7 precursor firearm parts necessary to manufacture or assemble a firearm, as well as all 8 9 non-serialized firearms), and to cease engaging in all conduct targeted by the 10 Ordinance, which includes conduct necessary to engage in the constitutionally 11 protected activity of self-manufacturing arms for self-defense, defense of others, and 12 13 other lawful purposes (i.e., the possession, purchase, sale, receipt, or transportation of 14 any precursor firearm parts necessary to manufacture or assemble a firearm). 15

Thus, Plaintiffs respectfully request that the Court set a shortened briefing and 16 17 hearing schedule that would allow Plaintiffs' application and renewed Motions to be 18 heard and decided before October 23, 2021, with a briefing schedule consistent with 19 the schedule they previously proposed, i.e., a hearing on or before October 8, 2021, 20 21 Defendants' opposition brief due by October 1, 2021, and Plaintiffs' reply brief due 22 by October 6, 2021, or otherwise as expeditiously as this Court's schedule will allow. 23 The DiGuiseppe Law Firm, P.C. September 28, 2021 24

> /s/ Raymond M. DiGuiseppe Raymond M. DiGuiseppe

4320 Southport-Supply Road, Suite 300 Southport, NC 28461 P: 910-713-8804 E: law.rmd@gmail.com

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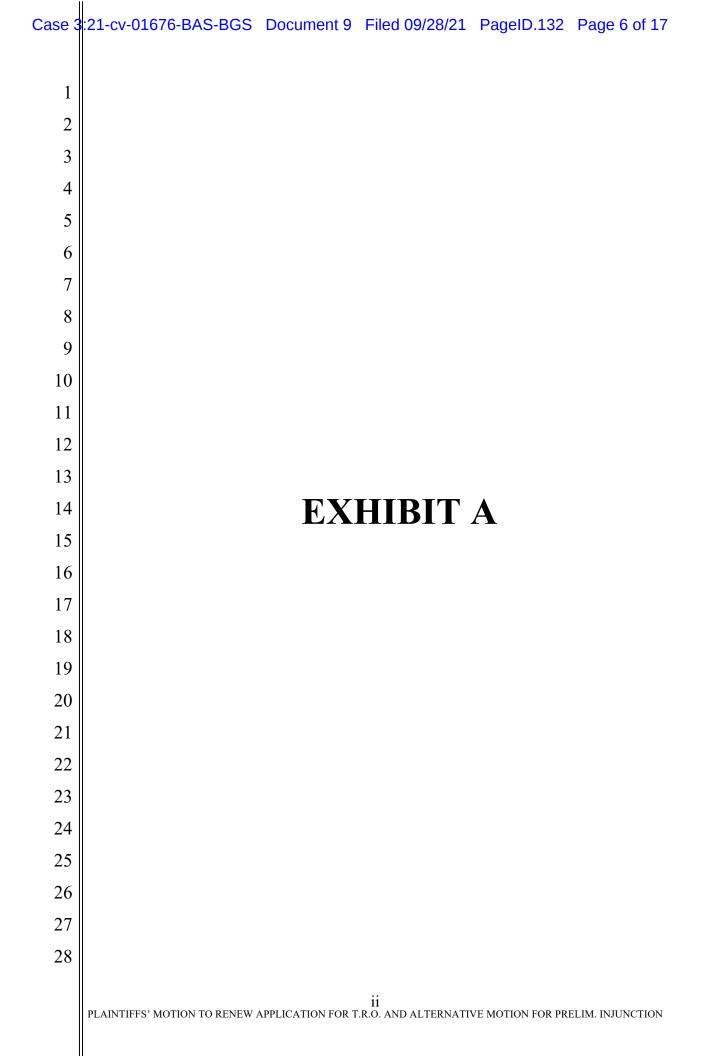
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Case 3	3:21-cv-01676-BAS-BGS	Document 9	Filed 09/28/21	PageID.130	Page 4 of 17
1			ration of Servio		
2	Plaintiffs have ser				etendant through
3	in-person service as evid	lenced by the	e attached proo	ts of service.	
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7	September 28, 2021		The DiGuise	ppe Law Firn	n, P.C.
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Case 3:21-cv-01676-BAS-BGS Document 9 Filed 09/28/21 PageID.131 Page 5 of 17

1		TABLE OF CONTENTS OF EXHIBITS
2	Exhibit A	Proof of Service of Complaint & Summons City Attorney
3	(1 page)	
4	Exhibit B	Proof of Service of Prior Motions on City Attorney
5	(1 page)	
6	Exhibit C	Proof of Service Complaint & Summons on David Nisleit
7	(1 page)	Troor of Service Complaint & Summons on David Asser
8		
9	Exhibit D	Proof of Service of Prior Motions of David Nisleit
10	(1 page)	
11	Exhibit E	Proof of Service of Renewal Motion on City Attorney
12	(1 page)	
13	Exhibit F	Proof of Service of Renewal Motion on David Nisleit
14	(1 page)	
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	PLAINTIFFS' MOTION T	i O RENEW APPLICATION FOR T.R.O. AND ALTERNATIVE MOTION FOR PRELIM. INJUNCTION



ATTORNEY OR PARENE HOUDATTORNEY (Morrison Sector) John W. Dillon SBN: 296788 DILLON LAW GROUP, APC 2647 Gateway Road Suite 105 No 255 TELEPHONE NO.: (760) 642-7150 FAX NO. (760) 642-71 ATTORNEY FOR (Name): plaintiff:	PageID.1533∞PPagee™tof 17					
UNITED STATES DISTRICT COURT OF STREET ADDRESS: 411 WEST 4TH STR CITY AND ZIP CODE: SANTA ANA, CA 92 BRANCH NAME: SOUTHERN DIVISIO						
PLAINTIFF/PETITIONER: JAMES FAHF DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER: 21-CV-1676-BAS+BGS					
PROOF OF SERVICE	Hearing Date:	Day	Hearing	Time:	Dept:	Ref. No. or File No.: Fahr v City of San Diego, et al.

SUMMONS IN A CIVIL ACTION; CIVIL COVER SHEET; COMPLAINT; DECLARATION OF DESIREE BERGMAN; DECLARATION OF JAMES FAHR; DECLARATION OF MICHAEL SCHWARTZ; DECLARATION OF COLIN RUDOLPH; PLAINTIFFS' NOTICE OF RELATED CASES; DECLARATION OF BRANDON COMBS; PLAINTIFF'S APPLICATION FORTEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTION FOR PRELIMINARY INJUNCTION; SUPPORTING MEMORANDUM OFPOINTS AND AUTHORITIES;

PARTY SERVED:	CITY OF SAN D	IEGO, CALIFORNIA				
PERSON SERVED:	Marguerite Hightower - Dept. City Clerk 1					
DATE & TIME:	9/24/2021 3:25 PM					
ADDRESS:	202 C St San Diego, CA	92101-4806				
PHYSICAL DESCRIPTION:	Age: 56 - 60 Sex: Female Skin: African A	Weight: 181-200 Lbs Height: 5'1 - 5'6 mericarMarks:	Hair: Black Eyes: Brown			

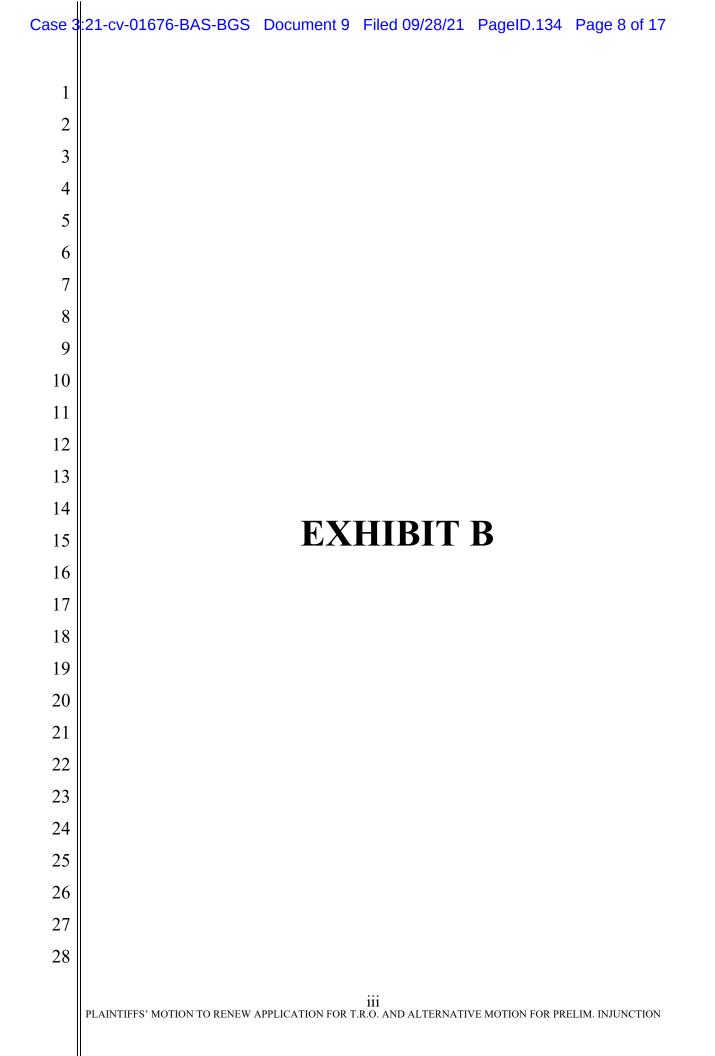
MANNER OF SERVICE:

Personal Service - By personally delivering copies.

Fee for Service: \$ 144.35 County: San Diego Registration No.: 3088 Nationwide Legal, LLC Reg: 12-234648 110 West C. St, Suite 1211 San Diego, CA 92101 (619) 232-7500 Ref: Fahr v City of San Diego, et al. I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **September 24, 2021**.

Signature:

Debra Sousa



ATTORNEY OR PARY AND A CONTRACT OF A CONTRAC	PagelD.1895 ංPrage % of 17					
USDC/SOUTHERN DISTRICT OF CALI STREET ADDRESS: 221 W. BROADWAY CITY AND ZIP CODE: SAN DIEGO, CA 92 BRANCH NAME: SOUTHERN DISTR						
PLAINTIFF/PETITIONER: JAMES FAHF DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER: 21CV1676BASBGS					
PROOF OF SERVICE	Hearing Date:	Day	Hearing 1	īme:	Dept:	Ref. No. or File No.: FAR V. CITY OF SAN DIEGO

PLAINTIFFS' EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEARPLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTIONFOR PRELIMINARY INJUNCTION; DECLARATION OF JOHN W. DILLON IN SUPPORT OF PLAINTIFFS' EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEARPLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTIONFOR PRELIMINARY INJUNCTION; DECLARATION OF JOHN W. DILLON

PARTY SERVED: CITY OF SAN DIEGO, CALIFORNIA C/O SAN DIEGO CITY ATTORNEY

PERSON SERVED: Colleen Williams - Authorized to accept

DATE & TIME: 9/27/2021 10:10 AM ADDRESS: OFFICE OF THE CLERK 202 C ST.

SAN DIEGO, CA 92101

PHYSICAL DESCRIPTION:	Age: 35-40	Weight: 200	Hair: Black
	Sex: Female	Height: 5'6"	Eyes: Brown
	Skin: Hispanic	Marks:	

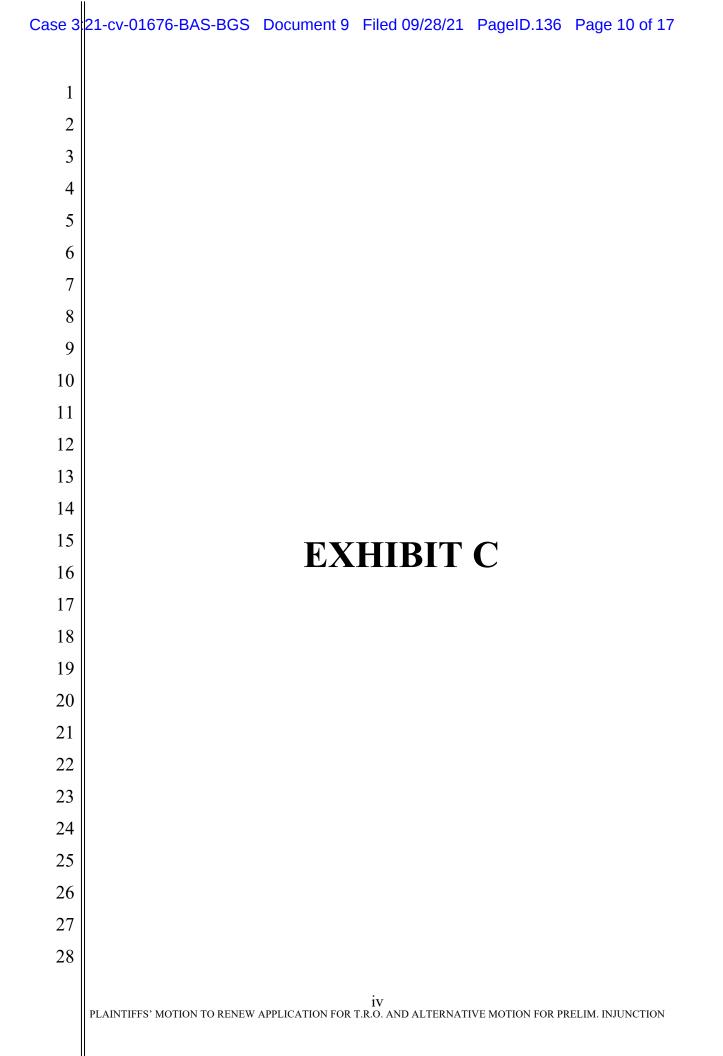
MANNER OF SERVICE:

Personal Service - By personally delivering copies.

Fee for Service: \$ 97.35 County: Registration No.: Nationwide Legal, LLC Reg: 12-234648 110 West C. St, Suite 1211 San Diego, CA 92101 (619) 232-7500 Ref: FAR V. CITY OF SAN DIEGO I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **September 27, 2021**.

Signature:__

Omar Lopez



ATTORNEY OR RAB SWITHOU ATORNEY I/G7664 John W. Dillon SBN: 296788 DILLON LAW GROUP, APC 2647 Gateway Road Suite 105 No 255 TELEPHONE NO.: (760) 642-7150 FAX NO. (760) 642-71 ATTORNEY FOR (Name): plaintiff:	PageID.137 ^{₽ c} ሞ®tge t∿1 ^v of 17					
UNITED STATES DISTRICT COURT OF STREET ADDRESS: 411 WEST 4TH STR CITY AND ZIP CODE: SANTA ANA, CA 92 BRANCH NAME: SOUTHERN DIVISIO						
PLAINTIFF/PETITIONER: JAMES FAHF DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER: 21-CV-1676-BAS+BGS					
PROOF OF SERVICE	Hearing Date:	Day	Hearing	Time:	Dept:	Ref. No. or File No.: Fahr v City of San Diego, et al.

SUMMONS IN A CIVIL ACTION; CIVIL COVER SHEET; COMPLAINT; DECLARATION OF DESIREE BERGMAN; DECLARATION OF JAMES FAHR; DECLARATION OF MICHAEL SCHWARTZ; DECLARATION OF COLIN RUDOLPH; PLAINTIFFS' NOTICE OF RELATED CASES; DECLARATION OF BRANDON COMBS; PLAINTIFF'S APPLICATION FORTEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTION FOR PRELIMINARY INJUNCTION; SUPPORTING MEMORANDUM OFPOINTS AND AUTHORITIES;

PARTY SERVED:	David Nisleit in his official capacity as Chief of Police of San Diego City, California							
PERSON SERVED:	Claudia C. (refused to give last name) - Authorized to accept							
DATE & TIME:	9/27/2021 10:00 AM							
ADDRESS:	1401 Broadway San Diego, CA 92101-5710							
PHYSICAL DESCRIPTION:	Age: 40's Sex: Female Skin: Hispanic	Weight: 170 Height: 5'5" Marks:	Hair: Black Eyes: Brown					

MANNER OF SERVICE:

Personal Service - By personally delivering copies.

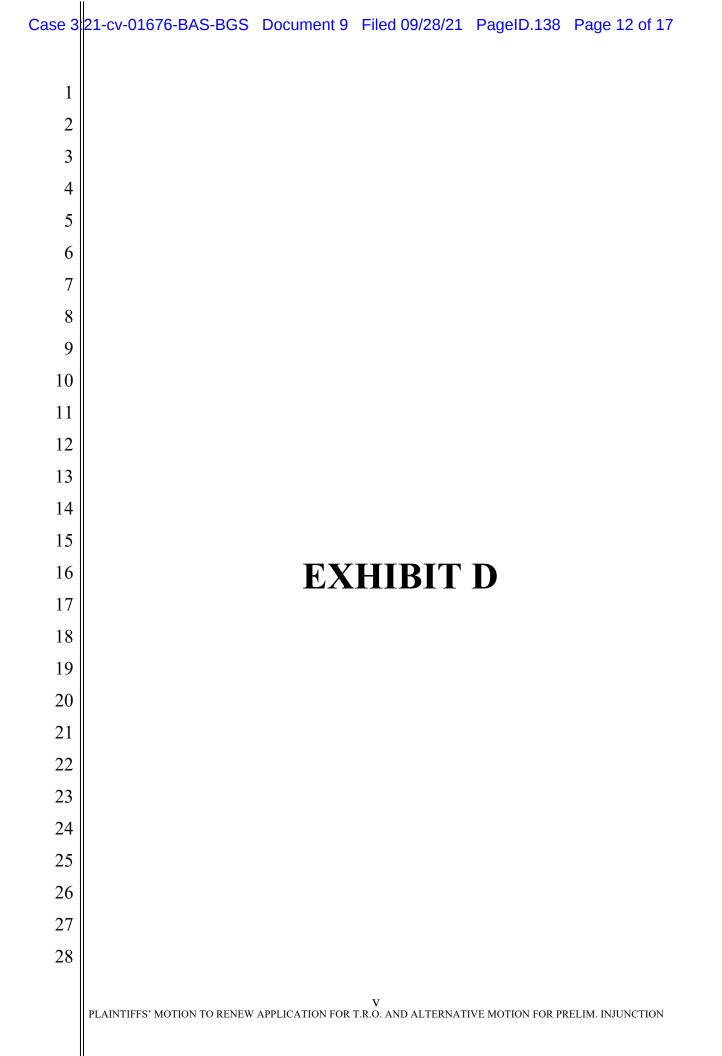
Fee for Service: \$72.00

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County: San Diego Registration No.: 1754 Nationwide Legal, LLC Reg: 12-234648 110 West C. St, Suite 1211 San Diego, CA 92101 (619) 232-7500 Ref: Fahr v City of San Diego, et al. I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **September 27, 2021**.

Signature:_

Anthony Jackson



ATTORNEY OR TAR SWITPOUT ATORNEY IN THE SWITPOUT ATORNEY IN THE SWITPOUT ATORNEY IN THE SWITPOUT ATORNEY FOR (Name): :	PageID.139 ^ନ ଦ™ଷଙ୍∰ ହଞ ^v of 17					
USDC/SOUTHERN DISTRICT OF CALI STREET ADDRESS: 221 W. BROADWAY CITY AND ZIP CODE: SAN DIEGO, CA 92 BRANCH NAME: SOUTHERN DISTRI						
PLAINTIFF/PETITIONER: JAMES FAHF DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER: 21CV1676BASBGS					
PROOF OF SERVICE	Hearing Date:	Day	Hearing	Time:	Dept:	Ref. No. or File No.: FAR V. CITY OF SAN DIEGO

PLAINTIFFS' EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEARPLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTIONFOR PRELIMINARY INJUNCTION; DECLARATION OF JOHN W. DILLON IN SUPPORT OF PLAINTIFFS' EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEARPLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTIONFOR PRELIMINARY INJUNCTION; DECLARATION OF JOHN W. DILLON

PARTY SERVED:	DAVID NISLEIT, SAN DIEGO CHIEF OF POLICE						
PERSON SERVED:	Claudia C. (refused to give last name) - Authorized to accept						
DATE & TIME:	9/27/2021 10:00 AM						
ADDRESS:	SAN DIEGO POLICE HEADQUARTERS 1401 BROADWAY SAN DIEGO, CA 92101						
PHYSICAL DESCRIPTION:	Age: 40's Sex: Female Skin: Hispanic	Weight: 170 Height: 5'5" Marks:	Hair: Black Eyes: Brown				

MANNER OF SERVICE:

Personal Service - By personally delivering copies.

Fee for Service: \$ 97.35

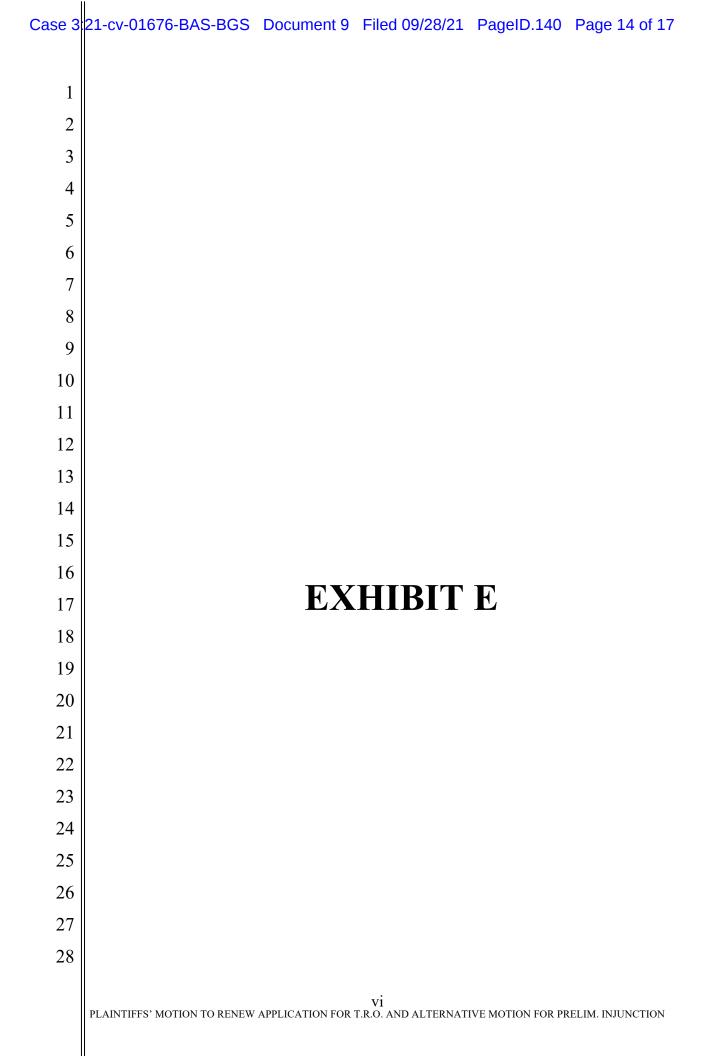


County: San Diego Registration No.: 1754 Nationwide Legal, LLC Reg: 12-234648 110 West C. St, Suite 1211 San Diego, CA 92101 (619) 232-7500 Ref: FAR V. CITY OF SAN DIEGO I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **September 27, 2021**.

Signature:_

Anthony Jackson

PROOF OF SERVICE



Case 3:21-cv-01676-BAS-BGS Document 9 Filed 09/28/21 PageID.141 Page 15 of 17

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Stat John W. Dillon SBN: 296788 DILLON LAW GROUP, APC 2647 Gateway Road Suite 105 No 255 TELEPHONE NO.: (760) 642-7150 FAX NO. (760) 642-71 ATTORNEY FOR (Name): Plaintiff:		FOR COURT USE ONLY			
USDC/SOUTHERN DISTRICT OF CALI STREET ADDRESS: 221 W. BROADWAY CITY AND ZIP CODE: SAN DIEGO, CA 92 BRANCH NAME: SOUTHERN DISTRI					
PLAINTIFF/PETITIONER: JAMES FAHF DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER: 21-cv-1676-BAS-BGS				
PROOF OF SERVICE	Hearing Date:	Day	Hearing Time:	Dept:	Ref. No. or File No.: FAR V. CITY OF SAN DIEGO

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION I SERVED COPIES OF THE FOLLOWING DOCUMENTS:

PLAINTIFFS' MOTION TO RENEW APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ALTERNATIVE MOTION FOR PRELIMINARYINJUNCTION UPON COMPLETION OF SERVICE;

- PARTY SERVED: CITY OF SAN DIEGO, CALIFORNIA c/o City Clerk
- PERSON SERVED: Colleen Williams Authorized to accept
 - DATE & TIME: 9/28/2021 11:20 AM
 - ADDRESS: 202 C St San Diego, CA 92101-4806
- PHYSICAL DESCRIPTION: Age: 36 40 Weight: 181-200 Lbs Hair: Brown Sex: Female Height: 5'1 - 5'6 Eyes: Brown Skin: African AmericanMarks:

MANNER OF SERVICE:

Personal Service - By personally delivering copies.



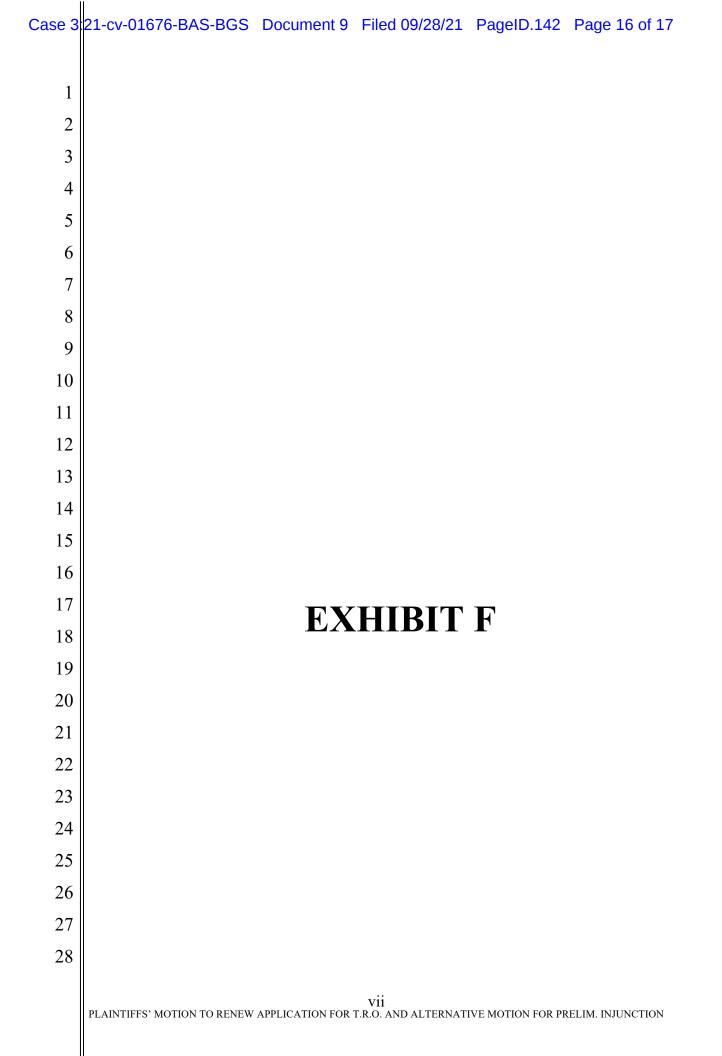
I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **September 28, 2021**.

MAZ

PROOF OF SERVICE

Signature

Omar Lopez



Case 3:21-cv-01676-BAS-BGS Document 9 Filed 09/28/21 PageID.143 Page 17 of 17

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State John W. Dillon SBN: 296788 DILLON LAW GROUP, APC 2647 Gateway Road Suite 105 No 255 TELEPHONE NO.: (760) 642-7150 FAX NO. (760) 642-71 ATTORNEY FOR (Name): Plaintiff:	FOR COURT USE ONLY				
USDC/SOUTHERN DISTRICT OF CALI	ORNIA				
STREET ADDRESS: 221 W. BROADWAY					
CITY AND ZIP CODE: SAN DIEGO, CA 92					
BRANCH NAME: SOUTHERN DISTRI					
PLAINTIFF/PETITIONER: JAMES FAHR, ET AL.					
DEFENDANT/RESPONDENT: CITY OF SAN	CASE NUMBER:				
					21-cv-1676-BAS-BGS
	Hereine Deter	David	Userias Time:	Denti	Ref. No. or File No.:
PROOF OF SERVICE	Hearing Date:	Day	Hearing Time:	Dept:	FAR V. CITY OF SAN DIEGO

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PLAINTIFFS' MOTION TO RENEW APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ALTERNATIVE MOTION FOR PRELIMINARYINJUNCTION UPON COMPLETION OF SERVICE;

PARTY SERVED:	DAVID NISLEIT, in his official capacity as Chief of Police of San Diego City, California					
PERSON SERVED:	Claudia Shadoan - Authorized to accept					
DATE & TIME:	9/28/2021 10:40 AM					
ADDRESS:	SAN DIEGO POLICE HEADQUARTERS 1401 Broadway San Diego, CA 92101-5710					
PHYSICAL DESCRIPTION:	Age: 41 - 45 Sex: Female Skin: Latino	Weight: 161-180 Lbs Height: 5'1 - 5'6 Marks: Glasses	Hair: Brown Eyes: Brown			

MANNER OF SERVICE:

Personal Service - By personally delivering copies.



I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on September 28, 2021.

wor Signature: Omar Lopez

PROOF OF SERVICE