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Attorney for Defendants, County of Los Angeles
Deputy John Roth and Deputy Wyatt Waldron

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANA PATRICIA FERNANDEZ,	)	CASE NO. 2:20-cv-9876-DMG-PD
)	
Plaintiff,	)	DEFENDANTS' OBJECTIONS TO
	)	PLAINTIFF'S EVIDENCE OFFERED
vs.	)	IN OPPOSITION TO THEIR
	)	MOTION FOR SUMMARY
LOS ANGELES COUNTY; et al.,	)	JUDGMENT
)	
Defendants.	)	Date: May 10, 2024
	)	Time: 2:00 p.m.
	)	Place: Courtroom 8C
	)	Judge: Hon. Dolly M. Gee
)	

Defendants, COUNTY OF LOS ANGELES, DEPUTY ROTH and DEPUTY
WALDRON submit the following as their objections to the Plaintiff's evidence in
opposition to their Motion for Summary Judgment.

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PLAINTIFF'S OFFER OF EVIDENCE	DEFENDANTS' OBJECTIONS
<p>1. Declaration of Ana Fernandez: "I am the widow of Manuel Fernandez, whom I affectionately called Manny. Over the course of his life, Manny owned hundreds of firearms both because he was a serious firearms collector and passionate gun enthusiast and because he hoped to sell those firearms through a licensed dealer during retirement."</p> <p><i>(Fernandez Declaration, para. 3)</i></p>	<p>Irrelevant: F.R.E. 401</p> <p>Manuel Fernandez was a person prohibited from owning firearms in the State of California. The statement regarding him being a gun enthusiast and setting forth his hope that he could sell the firearms during retirement are irrelevant and inadmissible as they have no tendency to prove any genuine issue in this case.</p>
<p>2. During the execution of the search warrant at my home on June 14, 2018, LASD officers discovered and seized 517 firearms belonging to my husband. I was present at the home during the execution of the search warrant and witnessed the search of my home and the seizure of Manny's firearms and other property we shared.</p> <p><i>(Fernandez Declaration, para. 7)</i></p>	<p>Plaintiff lacks capacity to make this statement: F.R.E Rules 601 and 601.</p> <p>While the Plaintiff was at home during the search, her observation of the search was extremely limited based on her own testimony.</p> <p>Contradicts Plaintiff's Deposition Testimony: The Plaintiff testified at deposition that she, her husband and daughter were kept in the den during the search. <i>(Fernandez deposition p. 29:9-12, Defense Exhibit 2)</i>. While in the den she could not see any of the areas where the deputies were searching. <i>(Fernandez deposition p. 30:8-10, Defense Exhibit</i></p>

	<p>2). The search lasted the entire day (<i>Fernandez deposition p. 28:3 – 29:9, Defense Exhibit 2</i>). The only time she witnessed any portion of the search was the 6-7 times that she left the den to go to the kitchen or restroom. (<i>Fernandez Deposition, p. 30:12-17</i>). When she did leave the den, she only saw deputies removing firearms from boxes. (<i>Fernandez Deposition, p. 30:18-22; p. 31:3-6</i>). Fernandez did not see the firearms being loaded into the pick-up truck, nor did she witness their transport to the station. (<i>Fernandez deposition, p. 31:7-10</i>). The plaintiff cannot defeat summary judgment by contradicting her own deposition testimony.</p>
<p>3. Manny kept many of his firearms in storage boxes, including the boxes they were bought and sold in, to properly preserve and protect them from scratches, dings, and damage. During the execution of the search warrant at my home on June 14, 2018, LASD officers tore open the protective boxes in which Manny kept his many guns</p>	<p>Plaintiff lacks capacity to make this statement: F.R.E Rules 601 and 601.</p> <p>While the Plaintiff was at home during the search, her observation of the search was extremely limited based on her own testimony.</p> <p>Contradicts Plaintiff's Deposition Testimony: The Plaintiff testified at deposition that she, her husband and</p>

1 and removed the guns from their
2 packaging for inspection, seizure, and
3 transport.

4 (*Fernandez Declaration, para. 8*)

daughter were kept in the den during the
search. (*Fernandez deposition p. 29:9-12, Defense Exhibit 2*). While in the den
she could not see any of the areas where
the deputies were searching. (*Fernandez
deposition p. 30:8-10, Defense Exhibit
2*). The search lasted the entire day
(*Fernandez deposition p. 28:3 – 29:9, Defense Exhibit 2*). The only time she
witnessed any portion of the search was
the 6-7 times that she left the den to go
to the kitchen or restroom. (*Fernandez
Deposition, p. 30:12-17*). When she did
leave the den, she only saw deputies
removing firearms from boxes.
(*Fernandez Deposition, p. 30:18-22; p. 31:3-6*). Fernandez did not see the
firearms being loaded into the pick-up
truck, nor did she witness their transport
to the station. (*Fernandez deposition, p. 31:7-10*). The plaintiff cannot defeat
summary judgment by contradicting her
own deposition testimony.

Hearsay, F.R.E. 801 (The statement
references documents which are out-of-
court statements offered to prove the
truth of the matters asserted therein. The

1		statement constitutes hearsay not
2		subject to any exemption)
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4	4. Due to the large size of his firearm	Contradicts deposition testimony: At
5	collection, my husband was unable to	deposition, the Plaintiff testified that
6	store all of his firearms in gun safes,	there were 2-3 gun safes at the Caprock
7	lock boxes, or similar containers—	residence and that they were stored in
8	though many were stored that way.	the garage. (<i>Fernandez Deposition, p.</i>
9	(<i>Fernandez Declaration, para. 9</i>)	<i>16:20-24</i>). The Plaintiff's statement that
10		the 450-500 Fernandez guns were kept
11		in safes contradicts her deposition
12		testimony. The Plaintiff cannot create a
13		triable issue of fact by contradicting her
14		own testimony.
15	5. During the execution of the warrant	Plaintiff lacks capacity to make this
16	at my home on June 14, 2018, when	statement: F.R.E Rules 601 and 601.
17	LASD officers and employees took	While the Plaintiff was at home during
18	Manny's guns from our home, instead	the search, her observation of the search
19	of placing them into separate boxes,	was extremely limited based on her own
20	wrapping them in cloth or paper, or	testimony.
21	even returning them the very boxes they	Contradicts Plaintiff's Deposition
22	removed them from, they shoved	Testimony: The Plaintiff testified at
23	dozens of them into trash cans,	deposition that she, her husband and
24	Rubbermaid-type plastic bins, and even	daughter were kept in the den during the
25	a laundry basket. As shown in the	search. (<i>Fernandez deposition p. 29:9-</i>
26	photographs of the seizure that I have	<i>12, Defense Exhibit 2</i>). While in the den
27	seen, it is clear that LASD officers and	she could not see any of the areas where

employees took little or no care for these seized firearms. There was no protective wrapping on the firearms, and they were all shoved in tightly in what looked to be like someone trying to get as many as they could into the various containers.

(Fernandez Declaration, para. 11)

the deputies were searching. *(Fernandez deposition p. 30:8-10, Defense Exhibit 2)*. The search lasted the entire day *(Fernandez deposition p. 28:3 – 29:9, Defense Exhibit 2)*. The only time she witnessed any portion of the search was the 6-7 times that she left the den to go to the kitchen or restroom. *(Fernandez Deposition, p. 30:12-17)*. When she did leave the den, she only saw deputies removing firearms from boxes. *(Fernandez Deposition, p. 30:18-22; p. 31:3-6)*. Fernandez did not see the firearms being loaded into the pick-up truck, nor did she witness their transport to the station. *(Fernandez deposition, p. 31:7-10)*. The plaintiff cannot defeat summary judgment by contradicting her own deposition testimony.

6. During the execution of the warrant at my home on June 14, 2018, LASD officers and employees dumped Manny's long guns into the bed of a pickup truck with no padding under, around, or between the firearms to protect them from dings, scratches, and other damages while being transported

Plaintiff lacks capacity to make this statement: F.R.E Rules 601 and 601.
While the Plaintiff was at home during the search, her observation of the search was extremely limited based on her own testimony.
Contradicts Plaintiff's Deposition

1 to the police station from my home.
 2 *(Fernandez Declaration, para. 12)*

Testimony: The Plaintiff testified at deposition that she, her husband and daughter were kept in the den during the search. *(Fernandez deposition p. 29:9-12, Defense Exhibit 2)*. While in the den she could not see any of the areas where the deputies were searching. *(Fernandez deposition p. 30:8-10, Defense Exhibit 2)*. The search lasted the entire day *(Fernandez deposition p. 28:3 – 29:9, Defense Exhibit 2)*. The only time she witnessed any portion of the search was the 6-7 times that she left the den to go to the kitchen or restroom. *(Fernandez Deposition, p. 30:12-17)*. When she did leave the den, she only saw deputies removing firearms from boxes. *(Fernandez Deposition, p. 30:18-22; p. 31:3-6)*. Fernandez did not see the firearms being loaded into the pick-up truck, nor did she witness their transport to the station. *(Fernandez deposition, p. 31:7-10)*. The plaintiff cannot defeat summary judgment by contradicting her own deposition testimony.

25 7. On August 5, 2019, I went to the
 26 Palmdale Station and met with Property

Plaintiff lacks capacity to make this statement: F.R.E Rules 601 and 601.

<p>1 Custodian Susan O’Leary-Brown to 2 retrieve electronics and other property 3 that had been seized from us during the 4 second raid of our home. While there, I 5 observed the inexcusable way LASD 6 personnel had stored and handled my 7 firearms while they were in possession 8 of them. I saw countless guns stacked 9 against each other and shoved into 10 plastic bins and similar open containers 11 without any protection from scratches, 12 dings, debris, or other damage. 13 <i>(Fernandez Declaration, para. 15)</i></p>	<p>First, the Plaintiff does not state how she was allowed access to a secured evidence room in a police station. Nevertheless, the Plaintiff could not possibly have witnessed countless the Fernandez firearms guns stacked against each other and shoved and open containers at the Palmdale Sheriff’s Station on August 5, 2019 because the firearms had been Property transported from Palmdale to the Central Property Unit in Whittier on July 25, 2018. <i>[SUF</i> <i>43; Susan Brown Declaration,</i> <i>paragraph 26. Defense Exhibit 14; and</i> <i>Defense Exhibit 14B PRELIMS – chain</i> <i>of custody report]</i>. Hearsay, F.R.E. 801 (The statement references documents which are out-of- court statements offered to prove the truth of the matters asserted therein. The statement constitutes hearsay not subject to any exemption)</p>
<p>23 8. In order to have my lawful property 24 returned, however, LASD demanded 25 that I pay an “administrative fee” of \$54 26 per seized firearm to be returned. The 27 total amount to have 451 firearms</p>	<p>Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The documents have no tendency to prove or disprove whether the \$54 per firearm fee imposed upon the plaintiff was</p>

<p>1 returned was \$24,354. Through Carol 2 Watson's Orange Coast Auctions 3 (CWOCA), I paid the \$24,354 4 "administrative fee" to LASD under 5 protest, and my firearms were released 6 to CWOCA employees from the 7 property custodian at the Palmdale 8 Station. 9 <i>(Fernandez Declaration, para.17)</i></p>	<p>unreasonable or constituted a trespass to chattels. There is no dispute that the County charged the Plaintiff \$54 per firearm to retrieve the Fernandez firearms. These documents are more prejudicial than probative because they are only offered to prove that the County of Los Angeles would not reduce the firearm fee, however, there was no requirement under the law to do so.</p> <p>Hearsay, F.R.E. 801 (The statement references document which are out-of- court statements offered to prove the truth of the matters asserted therein. They constitute hearsay not subject to any exemption)</p>
<p>18 9. Letter dated November 22, 2005 19 entitled: Approval of Creation of An 20 Administrative Fee. Author: Leory 21 Baca and attachments. <i>(Plaintiff's</i> 22 <i>Exhibit E, Bates 000290-000295)</i></p>	<p>Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The documents have no tendency to prove or disprove whether the \$54 per firearm fee imposed upon the plaintiff was unreasonable or constituted a trespass to chattels. There is no dispute that the County charged the Plaintiff \$54 per firearm to retrieve the Fernandez firearms. These documents are more</p>

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	<p>prejudicial than probative because it implies that the County's assessment of the fee pursuant to the Penal Code, as opposed to former Sheriff Baca's recommendations in 2005, was unreasonable.</p> <p>Hearsay, F.R.E. 801 (The document is an out-of-court statement offered to prove the truth of the matters asserted therein. They constitute hearsay not subject to any exemption)</p>
<p>10. Letter dated December 9, 2019 entitled: Re: Patricia Fernandez Firearms Administrative Fee, author Matthew D. Cuberio; and email dated December 5, 2019, author Lana Choi. (<i>Plaintiff's Exhibit R, Bates 000666-000668</i>)</p>	<p>Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The documents have no tendency to prove or disprove whether the \$54 per firearm fee imposed upon the plaintiff was unreasonable or constituted a trespass to chattels. There is no dispute that the County charged the Plaintiff \$54 per firearm to retrieve the Fernandez firearms. These documents are more prejudicial than probative because they are only offered to prove that the County of Los Angeles would not reduce the firearm fee, however, there was no requirement under the law to do so.</p>

1		Hearsay, F.R.E. 801 (The document is
2		an out-of-court statement offered to
3		prove the truth of the matters asserted
4		therein. They constitute hearsay not
5		subject to any exemption)
6	11. Photographs of firearms. Exhibits	Irrelevant / More Prejudicial than
7	N-1. Bates 000590-000597.	probative F.R.E Rules 401- 403 (The
8		photographs have no tendency to prove
9		or disprove that the Fernandez firearms
10		were damaged by Deputy Waldron or
11		Roth at the time of seizure or by any
12		County employee during seizure,
13		storage, transportation or release. The
14		photographs are offered against the
15		defendants without testimony showing
16		that they reflect damage prior to the
17		seizure.
18		No foundation / lacks authentication
19		F.R.E. 901, 1001, 1004 (No evidence is
20		offered to show that these photographs
21		are what they purport to be; no evidence
22		is offered to show who took the
23		photographs, nor when they were taken.
24		No foundation has been laid for
25		admissibility and the photos are not
26		authenticated.)
27		
28		

	<p>Hearsay, F.R.E. 801 (The photos are out-of-court statements offered to prove the truth of the matters asserted therein. They constitute hearsay not subject to any exemption)</p>
<p>12. Photographs of firearms. Exhibits N-2. Bates 000599-000604</p>	<p>Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The photographs have no tendency to prove or disprove that the Fernandez firearms were damaged by Deputy Waldron or Roth at the time of seizure or by any County employee during seizure, storage, transportation or release. The photographs are offered against the defendants without testimony showing that they reflect damage prior to the seizure.</p> <p>No foundation / lacks authentication F.R.E. 901, 1001, 1004 (No evidence is offered to show that these photographs are what they purport to be; no evidence is offered to show who took the photographs, nor when they were taken. No foundation has been laid for admissibility and the photos are not authenticated.)</p>

	Hearsay, F.R.E. 801 (The photos are out-of-court statements offered to prove the truth of the matters asserted therein. They constitute hearsay not subject to any exemption)
13. Photographs of firearms. Exhibits N-3. Bates 000606-000615.	Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The photographs have no tendency to prove or disprove that the Fernandez firearms were damaged by Deputy Waldron or Roth at the time of seizure or by any County employee during seizure, storage, transportation or release. The photographs are offered against the defendants without testimony showing that they reflect damage prior to the seizure. No foundation / lacks authentication F.R.E. 901, 1001, 1004 (No evidence is offered to show that these photographs are what they purport to be; no evidence is offered to show who took the photographs, nor when they were taken. No foundation has been laid for admissibility and the photos are not authenticated.)

	<p>Hearsay, F.R.E. 801 (The photos are out-of-court statements offered to prove the truth of the matters asserted therein. They constitute hearsay not subject to any exemption)</p>
<p>14. Photographs of firearms. Exhibits N-4. Bates 000624-000627; 000629 – 000633 and 0637</p>	<p>Irrelevant / More Prejudicial than probative F.R.E Rules 401- 403 (The photographs have no tendency to prove or disprove that the Fernandez firearms were damaged by Deputy Waldron or Roth at the time of seizure or by any County employee during seizure, storage, transportation or release. The photographs are offered against the defendants without testimony showing that they reflect damage prior to the seizure.</p> <p>No foundation / lacks authentication F.R.E. 901, 1001, 1004 (No evidence is offered to show that these photographs are what they purport to be; no evidence is offered to show who took the photographs, nor when they were taken. No foundation has been laid for admissibility and the photos are not authenticated.)</p>

1		Hearsay, F.R.E. 801 (The photos are
2		out-of-court statements offered to prove
3		the truth of the matters asserted therein.
4		They constitute hearsay not subject to
5		any exemption)
6	15. Declaration of Carol Watson.	Irrelevant and More Prejudicial than
7		Probative: F.R.E. 401-403; Lacks
8		Capacity: FR.E. 601, 602.
9		None of the statements set forth in the
10		declaration have any tendency to prove
11		or disprove a material fact in this case.
12		Watson does not and cannot attest to the
13		condition of any firearm prior to the
14		seizure, storage or transport of the
15		firearms by the County of Los Angeles.
16		Watson does not and cannot attest to the
17		cause of any damage to the Fernandz
18		firearms. Watson's opinion regarding
19		the diminished value of the firearms in
20		December 2019 is irrelevant without
21		evidence of the value prior to the
22		seizure.

23 DATED: April 18, 2024

LOGAN MATHEVOSIAN & HUR LLP

25 By: s / Amber A. Logan
 26 AMBER A. LOGAN
 27 Attorneys for Defendant,
 County of Los Angeles