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12 The People of the State of California

ENDORSED
FILED
ALAMEDA COUNTY

NOV 16 2010

CLERK OF THE SUPERIOR COURT
By H. Lovett
Deputy

EXEMPT FROM FILING FEES
GOVT CODE § 6103

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA
16

17 THE PEOPLE OF THE STATE OF
CALIFORNIA ex rel John A. Russo, City
18 Attorney for the City of Oakland,

19 Plaintiff,

20 v.,

21 NORTEÑOS, a criminal street gang sued
as an unincorporated association,
22 ALBERTO ACOSTA, RAUL ACOSTA
(A.K.A. RAUL GUTIERREZ), ROBERT
23 ALARID, LUIS AVALOS, SALVADOR
AVALOS, STEVEN AVALOZ, PEDRO
24 CARDENAS, JR., JOSEPH COOMBS
(A.K.A. JOSE GUERRERO, A.K.A.
25 JOSELITO CARRASCO), RUBEN
CORDOVA, ALEX CURIEL, VINCENT
26 DELGUIDICE (A.K.A ANTHONY
DELGUIDICE, A.K.A. MICHAEL
27 DELGUIDICE), ONORATO DELTORO
(A.K.A. FRANK LOPEZ, A.K.A. ARTURO
28 DELTORO, A.K.A. DELTORO

CASE NO. RG10541141

PEOPLE'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
INJUNCTION AGAINST THE
NORTEÑOS CRIMINAL STREET GANG

Date: December 17, 2010
Time: 11:00 a.m.
Dept.: 20

Reservation No.: R-1125508

Action Filed: October 13, 2010
Trial Date: Not Yet Set

BY FAX

1 ONORATO), VICTOR FLORES,
2 ANTHONY GARCIA (A.K.A. ANTONIO
3 GARCIA), FRANCISCO GOMEZ, JUAN
4 FRANCISCO GONZALEZ, RICARDO
5 MARIO GUERRERO, OMAR GUZMAN,
6 DAVID HERNANDEZ, MARTIN
7 HURTADO, ANTONIO LAMBAREN
8 (A.K.A. ANTONIO MANZO, A.K.A. LUIS
9 LAMBAREN), POOI LAUTAIMI, RUBEN
10 LEAL, JOSE MIGUEL LOPEZ (A.K.A.
11 JOSE JOZOLLAZ), OCTAVIO LUPIEN,
12 ABEL MANZO, JOEY ANTHONY
13 MARTINEZ, CRUZ ANTONIO MENDOZA,
14 ALEX MONDEZ, A.K.A. ALEX
15 MENDOZA, A.K.A. ALEJANDRO
16 VELASQUEZ, MICHAEL MUSCADINE,
17 ANGELO ORTEGA, DAVID PELAYO,
18 VICTOR PERALTA, JAVIER QUINTERO,
19 JOSE RODRIGUEZ, CARLOS ROMERO,
20 RAMON SANCHEZ, LUIS MIGUEL
21 SERRANO, AUGUSTINE VIGIL,
22 KENNETH VIGIL, DAVID WALLACE, and
23 RUBEN ZEPEDA (A.K.A. RUBEN
24 ZEPEDA GOMEZ) and DOE ONE through
25 DOE SEVENTY, inclusive,

26 Defendants.

27 **TO THE HONORABLE COURT AND ALL DEFENDANTS:**

28 **PLEASE TAKE NOTICE** that Plaintiff, the People of the State of California, moves
this Court for a Preliminary Injunction to abate a public nuisance through what is
commonly known as a "gang injunction." The injunction sought will enjoin and restrain
Defendant NORTEÑOS, a criminal street gang sued as an unincorporated association,
and all members of Defendant NORTEÑOS, including Defendants ALBERTO ACOSTA,
RAUL ACOSTA (A.K.A. RAUL GUTIERREZ), ROBERT ALARID, LUIS AVALOS,
SALVADOR AVALOS, STEVEN AVALOZ, PEDRO CARDENAS, JR., JOSEPH
COOMBS (A.K.A. JOSE GUERRERO, A.K.A. JOSELITO CARRASCO), RUBEN
CORDOVA, ALEX CURIEL, VINCENT DELGUIDICE (A.K.A ANTHONY DELGUIDICE,
A.K.A. MICHAEL DELGUIDICE), ONORATO DELTORO (A.K.A. FRANK LOPEZ, A.K.A.
ARTURO DELTORO, A.K.A. DELTORO ONORATO), VICTOR FLORES, ANTHONY
GARCIA (A.K.A. ANTONIO GARCIA), JUAN FRANCISCO GONZALEZ, RICARDO

1 MARIO GUERRERO, OMAR GUZMAN, DAVID HERNANDEZ, MARTIN HURTADO,
2 ANTONIO LAMBAREN (A.K.A. ANTONIO MANZO, A.K.A. LUIS LAMBAREN), POOL
3 LAUTAIMI, RUBEN LEAL, JOSE MIGUEL LOPEZ (A.K.A. JOSE JOZOLLAZ), OCTAVIO
4 LUPIEN, ABEL MANZO, JOEY ANTHONY MARTINEZ, CRUZ ANTONIO MENDOZA,
5 ALEX MONDEZ, A.K.A. ALEX MENDOZA, A.K.A. ALEJANDRO VELASQUEZ,
6 MICHAEL MUSCADINE, ANGELO ORTEGA, DAVID PELAYO, VICTOR PERALTA,
7 JAVIER QUINTERO, JOSE RODRIGUEZ, CARLOS ROMERO, RAMON SANCHEZ,
8 LUIS MIGUEL SERRANO, AUGUSTINE VIGIL, KENNETH VIGIL, DAVID WALLACE,
9 and RUBEN ZEPEDA (A.K.A. RUBEN ZEPEDA GOMEZ), from engaging in or
10 performing directly or indirectly, any of the following activities in a "Safety Zone, located in
11 the City of Oakland, and described as follows:

12 The eastern boundary starts at Brookdale Avenue, at the
13 intersection of Brookdale Avenue and High Street, then running
14 north along Brookdale Avenue to 35th Avenue and continuing
15 north to Fruitvale Avenue, then moving in a westerly direction
16 along Fruitvale Avenue, then continuing north along Brookdale
17 Avenue to 22nd Avenue, then east along 22nd Avenue to E.
18 28th Street, then continuing north along E. 28th Street to 21st
19 Avenue, then moving westerly along 21st Avenue all the way to
20 E 12th Street, then moving southwest along 23rd Avenue until
21 29th Avenue, then moving south via Glascock Street to
22 Lancaster Street, then moving in an easterly direction along
23 Lancaster Street to E. 7th Street, then moving south along E. 7th
24 Street, to Fruitvale Avenue, then west along Fruitvale to
25 Alameda Avenue, then continuing south along Alameda
26 Avenue to Howard Street and then to High Street, then moving
27 in an easterly direction along High Street to Foothill Boulevard,
28 then moving south along Foothill Boulevard to 48th Avenue,
then moving east along 48th Avenue to Melrose Avenue,
then moving north along Melrose Avenue to 42nd Avenue to
High Street, then moving east along High Street to the
starting point at Brookdale Avenue and High Street. A map
delineating the proposed Safety Zone is attached as Exhibit A to

1 this motion.

2 The activities Plaintiff moves this Court to enjoin include:

3 **a. No Gang Association:** Driving, standing, sitting, walking, gathering or
4 appearing, anywhere in public view or any place accessible to the public, with any known
5 member of the Norteños gang as said term is defined by law, including but not limited to
6 those members identified by named in the Complaint, except when members are directly
7 traveling to or from the following locations and where their presence is desired or
8 required: (1) inside a school attending class or on school business; (2) inside a church or
9 other place of worship; (3) at a location where they are actively engaged in a legitimate
10 business, employment, trade, training, profession or occupation; (4) at a location where
11 they're attending counseling sessions, seeking social services, or attending community
12 meetings at community centers or other established organizations;

13 **b. No Witness Intimidation:** Confronting, intimidating, annoying, harassing
14 threatening, challenging, provoking, assaulting or battering any person known to be a
15 witness to any activity of the Norteños gang, known to be a victim of any activity of
16 Norteños gang, or known to have complained about any activity of Norteños gang;

17 **c. No Firearms, Imitation Firearms, or Dangerous Weapons:** Anywhere in
18 public view or anyplace accessible to the public, (1) possessing any firearm, imitation
19 firearm, ammunition, or illegal weapon as defined in Penal Code section 12020, (2)
20 knowingly remaining in the presence of anyone who is in possession of such firearm,
21 imitation firearm, ammunition or illegal weapon, or (3) knowingly remaining in the
22 presence of such firearm, imitation firearm, ammunition or illegal weapon;

23 **d. No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any
24 public property or private property of another, or possessing any spray paint container,
25 felt tip marker, or other graffiti tool as defined in Penal Code section 594.2;

26 **e. Stay Away From Drugs:** (1) participating in the illegal sale, possession, or
27 use of any controlled substance or related paraphernalia, as defined in Health and Safety
28 Code Section 11364, including but not limited to rolling papers and pipes used for illegal

1 drug use, (2) knowingly remaining in the presence of anyone selling, possessing, or using
2 any controlled substance or such related paraphernalia, (3) knowingly remaining in the
3 presence of any controlled substance or such related paraphernalia; (4) driving under the
4 influence of any controlled substance, or (5) being under the influence of drugs in public;

5 **f. No Trespassing:** Being present on or in any property not open to the
6 general public, except (1) with the prior written consent of the owner, owner's agent, or
7 the person in lawful possession of the property, or (2) in the presence of and with the
8 voluntary consent of the owner, owner's agent, or the person in lawful possession of the
9 property;

10 **g. No Gang Signs, Gang Symbols or Gang Clothing:** Flashing hand signs,
11 meaning the use of one's hands or finger or fingers, to form the numbers "14," or "15";
12 wearing clothing hats or an accessory that contains red in whole or part that is visible to
13 the public, or publicly displaying by any means the following gang symbols, the numbers
14 "14", "XIV," "X4" "XXIV," "15", "XV", or "X5", the letter "N" or "M," the words, phrases or
15 acronyms for the following words or phrases, "Norte, " "Norteno" "Bridge Avenue
16 Norteños," the "Mitchell Street Norteños" (MSN), the "Untouchables" (UNT),
17 "Quince/Norteños E-15th", "Norteños on the Rise" (NOR), "Raza United Norteños"
18 (RUN), "Fruitvale Gangsters" (FVG), "36th Ave Locos" (TSL), "38th Ave Locos" (TEL),
19 and "51st Ave Locos" (FFL), with the exception of wearing a uniform that must be worn
20 while one is engaged in lawful employment or coming to and from the place of lawful
21 employment;

22 **h. Obey Time Restriction:** Being present in public view, in a public place or in
23 any place accessible to the public, between the hours of 10:00 p.m. on any day and 5:00
24 a.m. of the following day, unless (1) going directly to, returning directly from, or actively
25 engaged in a legitimate business, trade, profession or occupation, political event, church
26 (or other place of worship) event or education program requiring the enjoined person's
27 presence, (2) going directly to, returning directly from, or actively engaged in a lawful,
28 non-gang related entertainment event, or (3) actively involved in a legitimate emergency,

1 such as a fire, natural disaster, automobile accident or situation that requires immediate
2 action to prevent serious bodily injury or loss of life. For purposes of this provision,
3 "public place" means any place to which the public has access, including but not limited
4 to sidewalks, alleys, streets, highways, parks and the common areas of schools,
5 hospitals, office buildings, and transport facilities. For purposes of this provision,
6 "entertainment event" means an amusement activity that occurs at a commercial
7 establishment and includes only events for which admission is charged, such as movies,
8 plays, public performances or sporting events;

9 **i. Obey All Laws:** Failing to obey all laws that (1) prohibit violence and
10 threatened violence, including murder, robbery by force or fear, assault and battery, (2)
11 prohibit interference with the property rights of others including robbery, theft, driving or
12 taking a vehicle without the owner's consent, and vandalism, or (3) prohibit the
13 commission of acts which create a nuisance including the illegal sale of controlled
14 substances and blocking the sidewalk or street;

15 **j. No Gang Recruitment:** Taking any action to recruit gang members for
16 Defendant Norteños gang and its cliques, or making any threats or promises to shoot,
17 stab, strike, hit, batter, injure, assault, disturb the peace, or destroy the personal property
18 of anyone, as an incentive to join the Norteños gang;

19 **k. No Prevention of Any Person From Leaving the Gang:** Making any
20 threats or doing anything threatening, including without limitation shooting, striking,
21 battering, destroying the personal property or disturbing the peace (1) to prevent a
22 person from leaving the Norteños gang or (2) to any person known to have left the
23 Norteños gang; and

24 **l. No Loitering as Prohibited by Health and Safety Code section 11532:**
25 Loitering in a public place in a manner and under circumstances manifesting the purpose
26 and with the intent to commit an offense specified in Chapter 6 of the Health and Safety
27 Code, commencing with Section 11400, in accordance with Health and Safety Code
28 Section 11532(b);

1 Also, the People ask this Court to allow service of process and all documents in
2 this action including the complaint, summons, memorandum of points and authorities,
3 and supporting evidence (collectively, the "Service Documents") on Defendant
4 NORTEÑOS by the following methods:

5 **Personal Service on Designated Gang Members:** By personal service of a copy
6 of the above Service Documents on ALBERTO ACOSTA, RAUL ACOSTA (A.K.A. RAUL
7 GUTIERREZ), ROBERT ALARID, LUIS AVALOS, SALVADOR AVALOS, STEVEN
8 AVALOZ, PEDRO CARDENAS, JR., JOSEPH COOMBS (A.K.A. JOSE GUERRERO,
9 A.K.A. JOSELITO CARRASCO), RUBEN CORDOVA, ALEX CURIEL, VINCENT
10 DELGUIDICE (A.K.A ANTHONY DELGUIDICE, A.K.A. MICHAEL DELGUIDICE),
11 ONORATO DELTORO (A.K.A. FRANK LOPEZ, A.K.A. ARTURO DELTORO, A.K.A.
12 DELTORO ONORATO), VICTOR FLORES, ANTHONY GARCIA (A.K.A. ANTONIO
13 GARCIA), JUAN FRANCISCO GONZALEZ, RICARDO MARIO GUERRERO, OMAR
14 GUZMAN, DAVID HERNANDEZ, MARTIN HURTADO, ANTONIO LAMBAREN (A.K.A.
15 ANTONIO MANZO, A.K.A. LUIS LAMBAREN), POOI LAUTAIMI, RUBEN LEAL, JOSE
16 MIGUEL LOPEZ (A.K.A. JOSE JOZOLLAZ), OCTAVIO LUPIEN, ABEL MANZO, JOEY
17 ANTHONY MARTINEZ, CRUZ ANTONIO MENDOZA, ALEX MONDEZ, A.K.A. ALEX
18 MENDOZA, A.K.A. ALEJANDRO VELASQUEZ, MICHAEL MUSCADINE, ANGELO
19 ORTEGA, DAVID PELAYO, VICTOR PERALTA, JAVIER QUINTERO, JOSE
20 RODRIGUEZ, CARLOS ROMERO, RAMON SANCHEZ, LUIS MIGUEL SERRANO,
21 AUGUSTINE VIGIL, KENNETH VIGIL, DAVID WALLACE, and RUBEN ZEPEDA (A.K.A.
22 RUBEN ZEPEDA GOMEZ), the People have effectively served Defendant NORTEÑOS.

23 **Additional Service By Mail:** By mailing a copy of the documents to Defendant
24 NORTEÑOS; however, because Plaintiff has been unable to find an address of record or
25 a last known address for Defendant NORTEÑOS, Plaintiff is authorized to mail the
26 documents to NORTEÑOS by mailing the documents to NORTEÑOS in care of the
27 address of record or last known address of three (3) or more of the above-listed
28 Designated Gang Members and individual Defendants.

1 Service of process as outlined above is in accordance with Code of Civil
2 Procedure §416.40(c) and Corporations Code § 18220 (service on an unincorporated
3 association can be made, on court order, by personal service on one or more court-
4 designated members and mailing to the last known business address.)

5 Plaintiff will effect service of the individual Defendants pursuant to code.

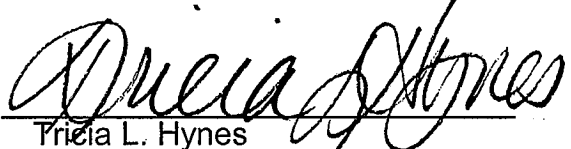
6 Plaintiff's motion for a preliminary injunction is made on the grounds that a public
7 nuisance caused by the conduct and activities of this criminal street gang exists in the
8 proposed Safety Zone, that the conduct and activities of this Defendant NORTEÑOS
9 criminal street gang, and the individual Defendants, are the causes of that public
10 nuisance, and that Plaintiff may properly move this Court to abate that public nuisance.

11 Plaintiff's motion for a preliminary injunction is based on the California Supreme
12 Court opinion, *People v. Acuna*, 14 Cal. 4th 1090 (1997), *cert denied*, 521 U.S. 1121,
13 which upholds the use of a gang injunction by a City Attorney, on behalf of the People
14 of the State at California, to abate a public nuisance caused by a street gang's conduct
15 and activities, and is further based on Civil Code sections 3479, 3480, 3491 and 3494,
16 Code of Civil Procedure sections 416.40(c), 526(a) and 731, *People v. Colonia*
17 *Chiques*, 156 Cal. App. 4th 31 (2007); *People v. Englebrecht*, 88 Cal. App. 4th 1236
18 (2001); *In re Englebrecht*, 67 Cal.App. 4th 486 (1998), such additional and other
19 authorities as may be cited in plaintiff's memorandum of points and authorities in
20 support of this motion, and is based on the Expert Declarations of Officer Douglass
21 Keely, Officer Eugene Guerrero, and Captain Darren Allison, and over 125 percipient
22 witness declarations from the Oakland Police Department, and any other evidence
23 and argument that may properly come before the Court.

24 Dated: November 16, 2010

Respectfully submitted,
MEYERS, NAVE, RIBACK, SILVER & WILSON

25
26 By:


Tricia L. Hynes
Attorney for Plaintiff
The People of the State of California

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28 1545478.1