

PUBLIC MATTER

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FILED

AUG 16 2017

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case No. 16-J-16395
 14 MATTHEW SCOTT PAPPAS,)
 No. 171860,) NOTICE OF DISCIPLINARY CHARGES
 15)
 16 A Member of the State Bar.) (Bus. & Prof. Code, § 6049.1; Rules Proc. Of
 State Bar, rules 5.350 to 5.354)

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Matthew Scott Pappas ("respondent") was admitted to the practice of law in the State
4 of California on November 22, 1994, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION

7 2. On or about June 21, 2016, the Central District of California ordered that respondent
8 be disciplined upon findings that respondent had committed professional misconduct in that
9 jurisdiction as set forth in the Order Imposing Discipline Against Matthew S. Pappas L.R.
10 83.3.1.7 on June 21, 2016. Thereafter, the decision of the foreign jurisdiction became final.

11 3. A certified copy of the final order of disciplinary action of the foreign jurisdiction is
12 attached as Exhibit 1 and incorporated by reference.

13 4. A certified copy of findings, conclusions and recommendations of the foreign
14 jurisdiction is attached as Exhibit 2 and incorporated by reference.

15 5. A copy of the statutes, rules or court orders of the foreign jurisdiction found to have
16 been violated by respondent is attached as Exhibit 3 and incorporated by reference.

17 6. Respondent's culpability as determined by the foreign jurisdiction indicates that the
18 following California statutes or rules have been violated or warrant the filing of this Notice of
19 Disciplinary Charges: Rule of Professional Conduct 3-110(A) and Bus. & Prof. Codes §6103
20 and §6068(o)(3).

21 ISSUES FOR DISCIPLINARY PROCEEDINGS

22 7. The attached findings and final order are conclusive evidence that respondent is
23 culpable of professional misconduct in this state subject only to the following issues:

24 A. The degree of discipline to impose;

25 B. Whether, as a matter of law, respondent's culpability determined in the
26 proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of
27

1 California under the laws or rules binding upon members of the State Bar at the time the member
2 committed misconduct in such other jurisdiction; and

3 C. Whether the proceedings of the other jurisdiction lacked fundamental
4 constitutional protection.

5 8. Respondent shall bear the burden of proof with regard to the issues set forth in
6 subparagraphs B and C of the preceding paragraph.

7
8 **NOTICE - INACTIVE ENROLLMENT!**

9 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
10 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
11 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
12 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
13 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
14 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
15 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
16 RECOMMENDED BY THE COURT.**

17
18 **NOTICE - COST ASSESSMENT!**

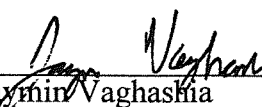
19 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
20 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
21 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
22 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
23 PROFESSIONS CODE SECTION 6086.10.**

24 Respectfully submitted,

25 THE STATE BAR OF CALIFORNIA
26 OFFICE OF CHIEF TRIAL COUNSEL

27 DATED: August 16, 2017

28 By: _____


Jaymin Vaghaskia
Deputy Trial Counsel

JS-6

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In the Matter of Matthew S. Pappas,
Respondent.

No. 16-4044 SJO PA MWF
ORDER IMPOSING DISCIPLINE
AGAINST MATTHEW S. PAPPAS
L.R. 83.3.1.7

The Court having considered Section 3 of the STANDING COMMITTEE ON DISCIPLINE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS, L.R. 83.3.1.7 regarding Matthew S. Pappas, which was approved unanimously in a telephonic meeting with a quorum of the Central District's Standing Committee on Attorney Discipline ("Standing Committee") and the complaint of Judge Stephen V. Wilson, the Court makes the following factual findings:

1. Mr. Pappas does not currently possess the mental and emotional health to competently practice law in accordance with the standards of professional conduct required of attorneys practicing in the Central District of California;
2. Mr. Pappas has repeatedly demonstrated a lack of competence in representing clients in the Central District of California;

1 3. Mr. Pappas has acknowledged that he committed malpractice in the
2 Acevedo case, and he demonstrated a significant lack of judgment in failing to
3 comply with court orders in the Green Earth and Bensen matters; and

4 4. In the Nation matter, Mr. Pappas' failure to appear at the pretrial
5 conference and order to show cause hearing demonstrated a lack of competence.

6 It is therefore ordered, that Mr. Pappas be suspended from practice in the
7 Central District of California for a period of no less than six months and that before
8 he may be re-admitted to practice in this District, he must provide to the Standing
9 Committee under Local Rule 83-3.1.8, competent evidence of the following:

10 1. Successful completion of an MCLE course re law office management
11 and the acquisition of calendaring software;

12 2. Enrollment and continuing participation for a minimum of six months
13 in the State Bar of California's Lawyer Assistance Program for mental health
14 counseling; and

15 3. Payment of the sanctions imposed by Judge Wilson in the amount of
16 \$3,263.01 in the *Nation* matter;

17 It is further Ordered that:

18 4. Within 10 court days of service of this Order Mr. Pappas provide
19 notice to the Standing Committee that he advised all clients he represented in
20 matters pending before the Central District of California as of November 23, 2015,
21 when he failed to appear in the Nation matter, or thereafter, of this Order and his
22 suspension, and that he is assisting those clients with pending matters to secure
23 counsel for their matters;

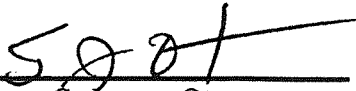
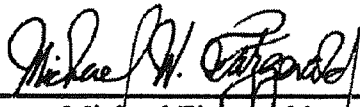

24 5. Should Mr. Pappas file an Application for Reinstatement under Local
25 Rule 83-3.1.8, he must make himself available to the Standing Committee so that
26 the Standing Committee may interview him and assess his physical and mental
27 fitness to competently practice as a member of the Bar of this Court. In seeking
28 reinstatement Mr. Pappas must produce by clear and convincing evidence

1 satisfactory to the Committee that he is a person of honest demeanor and good
 2 moral character and possesses the requisite physical and mental fitness to perform
 3 the obligations and responsibilities of a practicing attorney. Specifically, that he
 4 possesses the requisite character and fitness to: (a) comply with deadlines; (b)
 5 communicate honestly, candidly, and civilly with clients, attorneys, courts, and
 6 others; (c) conduct financial dealings in a responsible, honest, and trustworthy
 7 manner; (d) avoid acts that are illegal, dishonest, fraudulent, or deceitful; and (e)
 8 conduct himself in accordance with the requirements of Federal Rules of Civil
 9 Procedure, Local Rules of Practice for the United States District Court for the
 10 Central District of California, and applicable order of the court, and the California
 11 Rules of Professional Conduct.

12 Evidence may be in the form of a list of recent cases in which he is the
 13 attorney of record, including the case number, the court in which the matter is
 14 pending, the name of the judge, and opposing counsel, as well as letters from
 15 opposing counsel, judges, and clients attesting to Mr. Pappas' competence. It may
 16 also include reports from a physician or therapist that Mr. Pappas has been
 17 undergoing treatment and is in good mental and physical health.

18 6. That the California State Bar be notified of the Court's decision on
 19 this matter.

20 DATED: June 21, 2016
 21
 22

23
 24   
 25 _____
 26 S. James Otero Michael Fitzgerald Percy Anderson
 27 U.S. District Judge U.S. District Judge U.S. District Judge
 28

I hereby attest and certify on 9/01/16
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Dawn M. Kelley

DEPUTY CLERK



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FILED
CLERK, U.S. DISTRICT COURT

06/08/2016

CENTRAL DISTRICT OF CALIFORNIA
BY: M. Cash DEPUTY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In the Matter of Matthew S. Pappas,)
Respondent)

CASE NO.
CV 16-04044 SJO-PA-MWF

**SECTION 3 OF STANDING
COMMITTEE ON DISCIPLINE
FINDINGS, CONCLUSIONS
AND RECOMMENDATIONS,
L.R. 83.3.1.7**

1 **I. BACKGROUND**

2 On December 9, 2015, Judge Steven Wilson referred a matter involving
3 Matthew Pappas to the Central District’s Standing Committee on Attorney Discipline
4 (“Standing Committee”), a copy of which is attached as Exhibit A. On December 11,
5 2015, Jeff Westerman, Chair of the Standing Committee assigned this matter to
6 Section 3 of the Standing Committee.

7 Judge Wilson’s referral arose from a matter entitled *John Nation v. City of Long*
8 *Beach*, Case No. 2:15-cv-00725 SVW. In the *Nation* matter, Mr. Pappas failed to
9 appear at the final pre-trial conference on November 23, 2015 (*Nation* Dkt. # 30), the
10 trial (scheduled for December 1, 2015) (*Nation* Dkt. # 31), and then at a December 8,
11 2015 hearing on an order to show cause (“*Nation* OSC Hearing”) for his failure to
12 appear at the trial (*Nation* Dkt. # 39). In connection with his referral to the Standing
13 Committee, Judge Wilson also cited four cases involving Mr. Pappas pending before
14 other Central District judges.

15 On December 14, 2015, as reflected in Exhibit B hereto, R. Alexander Pilmer as
16 Chair of Section 3 of the Standing Committee, advised Mr. Pappas of the referral and
17 requested that Mr. Pappas respond to Judge Wilson’s referral. On January 20, 2016,
18 Mr. Pappas e-mailed his response, a copy of which is attached as Exhibit C.¹ In his
19 response, Mr. Pappas claimed that he failed to appear at the trial in the *Nation* matter
20 on December 1st because he was ill; he made a similar assertion to Judge Wilson in
21 December 2015. In his written response to Section 3, Mr. Pappas did not explain why
22 he did not attend the November 23rd pretrial conference or the *Nation* OSC Hearing.
23 Mr. Pappas also asserted that while he should not have been sanctioned for his
24 conduct in the *Nation* matter, he did believe that his work in another matter (the
25 *Acevedo* matter, a case mentioned in Judge Wilson's referral and discussed below)
26 could have been appropriately sanctioned.

27 ¹ Mr. Pappas’ response is dated December 29, 2015, and purports to have been sent
28 via facsimile, U.S. Mail and e-mail. It was transmitted only via e-mail, and only on
January 20, 2016.

1 In light of Mr. Pappas' written response and the many questions we still had,
2 Section 3 requested an in-person interview with Mr. Pappas. That interview took place
3 on March 28, 2016 in Mr. Pilmer's law office. Section 3 members Ronald Nessim and
4 Lei Lei Wang Ekvall also attended.

5 **II. INTERVIEW WITH MR. PAPPAS**

6 Mr. Pappas has been a licensed attorney in California since 1994. In the mid
7 1990s, however, Mr. Pappas moved to the state of Washington where he worked in
8 the computer field, and did not practice law. In 2010, he returned to California and
9 resumed the practice of law. He describes himself as a "medical cannabis lawyer,"
10 with a focus on the rights of seriously disabled patients. In the course of his practice,
11 he states that he has significant conflicts with various Southern California
12 municipalities, with the most significant conflict appearing to be with the city of Long
13 Beach.

14 Our interview with Mr. Pappas focused on four cases: *Nation v. City of Long*
15 *Beach* Case No. 2:15-cv-00725 SVW, and three of the four other cases referred to in
16 Judge Wilson's order; *Acevedo v. City of Anaheim, et al*, Case No. 8:14-cv-01147-
17 ODW; *Green Earth Center, Inc., et al., v. City of Long Beach, et al.*, Case No. SACV
18 13-0002 ALG; and *Bensen v. Murrieta Police Department, et al.*, Case No. 8:15-cv-
19 00436-AG.²

20 **A. Nation**

21 Mr. Pappas filed a civil rights suit on behalf of Mr. Nation against the City of
22 Long Beach. According to Mr. Pappas, as relayed to Section 3 in our interview with
23 him, he believed the *Nation* case was meritorious, and one that he believed could be
24

25 ² Judge Wilson's referral to the Standing Committee also cited *James v. City of*
26 *Costa Mesa, et al.*, Case No. SACV 10-402 AG. The Standing Committee does not
27 believe the *James* matter involves sanctionable misconduct by Mr. Pappas along
28 the lines suggested in the *Nation* and other cases. Mr. Pappas did actively
participate in the *James* matter; he sought a preliminary injunction on behalf of his
client, and timely pursued an appeal to the Ninth Circuit when the court denied that
request.

1 won at trial. Judge Wilson's December 8th order (*Nation* Dkt. # 39) recites that Mr.
2 Pappas did not meet with his client to prepare Mr. Nation for his deposition; Mr.
3 Pappas contends that is not true, and that he in fact met several times with Mr. Nation
4 in advance of the deposition. The December 8th order also states that Mr. Pappas did
5 not disclose any expert witnesses on behalf of Mr. Nation. Mr. Pappas responds that
6 he did not think expert witnesses were necessary, and in any event there were no funds
7 available to retain expert witnesses. Judge Wilson's order also states that Mr. Pappas
8 did not propose any jury instructions on behalf of Mr. Nation; Mr. Pappas again
9 contends that he did not think any plaintiff-specific instructions were necessary and he
10 was satisfied with those proposed by the defense.

11 In his interview with Section 3, Mr. Pappas concedes that he failed to appear for
12 the November 23rd final pretrial conference; he asserts a calendaring error as the
13 reason for that failure. He acknowledges that defense counsel had reminded him of the
14 pretrial conference, but he claims that the remainder was in the nature of "see you at
15 the pretrial conference next week," without a specific date reference.

16 Mr. Pappas asserts that the reason for his non-appearance at trial was illness.
17 Indeed, he dispatched a paralegal with a purported doctor's note to advise the Court of
18 his illness. (*See Nation* Dkt. # 31). As discussed below, because it is not critical to the
19 Standing Committee's recommended discipline, we express no view on the *bona fides*
20 of Mr. Pappas' December 1st illness.

21 During his interview with Section 3, Mr. Pappas stated that he had planned to
22 attend the December 8 *Nation* OSC Hearing. In fact, Mr. Pappas claimed that he
23 actually drove to the Federal Courthouse on December 8th, and was prepared to enter
24 Judge Wilson's courtroom to appear for the *Nation* OSC Hearing. However, Mr.
25 Pappas claimed that he was seized with panic, retreated to the men's restroom, sat in a
26 stall, and felt as if he was "this close to having a mental breakdown." Although he was
27 eventually able to gain sufficient control of his faculties to drive home, he elected not
28 to appear at the *Nation* OSC Hearing.

1 Mr. Pappas has not paid the \$3,263.01 sanctions issued by Judge Wilson,
2 claiming he could not afford to do so.

3 **B. Acevedo**

4 Judge Wilson's referral order included a reference to four other matters where
5 Mr. Pappas was counsel of record. *Acevedo v. City of Anaheim, et al*, 8:14-cv-01147-
6 ODW is one of those cases. *Acevedo* involved a civil rights suit filed on behalf of the
7 minor son and mother of an individual who was killed in a police shooting; the officer
8 involved in the shooting contended that he fired in self-defense. In his written
9 response to Section 3 about the *Nation* case, Mr. Pappas admitted "I really screwed up
10 in the *Acevedo* case by not keeping my eye on the ball."

11 Mr. Pappas states that he agreed to take on this representation just a few days
12 before the statute of limitations was to have expired. He filed the suit on July 23, 2014
13 (*Acevedo* Dkt. # 4) to protect the client, but was looking to "offload" or "assign the
14 case out" to other counsel; he was never able to secure alternative counsel. He did,
15 however, have some occasional assistance on the representation.

16 On August 21, 2015, Judge Wright ordered the parties in *Acevedo* to appear at a
17 settlement conference on September 10, 2015 before Magistrate Judge Eick. (*Acevedo*
18 Dkt. # 30). Judge Wright's order also directed "each party" to submit a settlement
19 conference statement to Magistrate Judge Eick by September 3, 2015. Mr. Pappas
20 failed to submit any settlement conference statement. (*Acevedo* Dkt. # 32); he advised
21 Section 3 during his interview that he felt it was sufficient to rely on the defendant's
22 settlement conference statement. He also acknowledged that he should have read the
23 order, which required each party to submit a statement, more carefully.

24 Mr. Pappas did not appear at the September 10th settlement conference. *Id.*
25 Instead, he telephoned the clerk on September 9th, and advised that he "had been
26 ordered to appear in the United States District Court for the Middle District of
27
28

1 Florida” and could not attend the settlement conference.³ The court then extended the
2 deadline to conduct the mandatory settlement conference, and vacated all current
3 deadlines, including the deadline for Mr. Pappas to oppose the defendants’ pending
4 summary judgment motion. (*Acevedo* Dkt. # 33).

5 On November 16, 2015, after the parties were unable to reach a settlement, the
6 Court reset defendants’ summary judgment motion for hearing on January 4, 2016.
7 (*Acevedo* Dkt. # 41). Mr. Pappas’ last day to file an opposition on behalf of his clients
8 to the summary judgment motion was therefore December 14, 2015. Mr. Pappas did
9 not at any time file an opposition to the summary judgment motion, and on January 6,
10 2016 Judge Wright granted defendants’ summary judgment motion in its entirety.
11 (*Acevedo* Dkt. # 46).

12 Mr. Pappas claimed to have learned of the dismissal while in Germany in
13 January 2016; he says the news of the dismissal “floored him.” During our interview,
14 Mr. Pappas repeatedly expressed the sentiment that he was at fault for not filing an
15 opposition to the summary judgment motion, volunteering that he had committed
16 malpractice. He explained that his office had some “calendar issues,” and that he
17 believed someone else had filed the opposition to the summary judgment motion. He
18 also stated that sometimes he does not review all of the papers and court orders filed
19 in his cases.

20 Mr. Pappas stressed that he is in the process of filing a motion seeking relief
21 from the default since his client should not have to suffer for his mistakes. He had no
22 real explanation, however, why he had not yet filed that motion since he stated he
23 learned of the dismissal in January.

24 **C. Lovelace (Florida case)**

25 Ordinarily, the Standing Committee would not discuss an attorney’s conduct in
26 an out-of-district case. Here, however, Mr. Pappas’ representation of a client in a

27 ³ The matter in the Middle District of Florida is *United States v. David Brock*
28 *Lovelace*, which we discuss in detail below.

1 criminal medicare fraud case entitled *United States v. David Brock Lovelace*,
2 U.S.D.C., Middle District of Florida, Case No. 8:14-cr-00164-SDM intersects in a
3 material fashion with our investigation.

4 In the course of his representation in *Acevedo*, Mr. Pappas indicated that he
5 could not appear at the mandatory settlement conference because he was ordered to
6 appear in a matter pending in Florida. (*Acevedo* Dkt. # 32). During our interview, Mr.
7 Pappas acknowledged that the matter referenced in the *Acevedo* court's minute order
8 was, in fact, the *Lovelace* matter. The history of Mr. Pappas' involvement in *Lovelace*
9 is somewhat complicated.

10 On August 27, 2015, Mr. Pappas filed a motion to appear *pro hac vice* in the
11 *Lovelace* case (*Lovelace* Dkt. # 234), and a motion to substitute in as counsel
12 (*Lovelace* Dkt. # 233). The next day the United States Attorney's Office filed a
13 response to Mr. Pappas' motions, stating in essence that the case had been pending for
14 a long time, was complicated, and requesting a hearing on the motions given the
15 potential impact on the upcoming trial. (*Lovelace* Dkt. # 235). On September 9, 2015,
16 the Florida court held a hearing on Mr. Pappas' *pro hac* application. (*Lovelace* Dkt. #
17 244).⁴ During this hearing, Mr. Pappas advised the court that he would be requesting a
18 trial continuance "due to a conflict with another federal trial in Los Angeles." *Id.* The
19 Los Angeles federal trial was the *Acevedo* matter.

20 On September 11, 2015, the USAO's filed another response to the *pro hac vice*
21 application. (*Lovelace* Dkt. # 242). Here, the prosecutor's office attached the docket
22 from the *Acevedo* case, showing no trial set to begin in October 2015 (when *Lovelace*
23 was set for trial). *Id.* Indeed, the government pointed out that there never had been a
24

25 ⁴ On September 9, 2015, Mr. Pappas advised the court in the *Acevedo* matter that he
26 had been "ordered" to appear in the Middle District of Florida, and thus could not
27 appear for the settlement conference in *Acevedo* in Los Angeles on September
28 10th. Although the court in *Lovelace* did set a hearing on Mr. Pappas' *pro hac*
vice and substitution motions for September 9th in Florida, Section 3 was unable to
uncover a court order specifically compelling Mr. Pappas' attendance at that
hearing.

1 trial scheduled in *Acevedo* in October; the trial was scheduled for November 17, 2015,
2 and had been for about 10 months. *Id.* On the same day as the government's
3 submission, the court issued an order directing Mr. Pappas to respond to the USAO's
4 filing, noting that "these circumstances, if true, suggest that Mr. Pappas made a
5 misrepresentation to the Court at the hearing regarding a conflict on his calendar."
6 (*Lovelace* Dkt. # 243).

7 Later on September 11, 2015, Mr. Pappas responded to the court's order.
8 (*Lovelace* Dkt. # 245). In this response Mr. Pappas asserted that (1) he did not (his
9 emphasis) want to be counsel in the *Lovelace* case; (2) he felt the government was
10 essentially railroading his client; and (3) he had called a staff member to inquire about
11 the trial date in *Acevedo* who told him that trial in *Acevedo* was to begin on October
12 4th. He asserted that his misstatement to the *Lovelace* court about the *Acevedo* trial
13 date was unintentional.⁵

14 On September 16, 2015, the court granted Mr. Pappas' substitution motion
15 (*Lovelace* Dkt. # 248) and *pro hac vice* application (*Lovelace* Dkt. # 250). The court
16 found that Mr. Pappas' misstatement about the *Acevedo* trial date was unintentional,
17 crediting in part Mr. Pappas' later statement that he was referring to a state felony
18 preliminary hearing and a "stipulation in the California federal civil case" to continue
19 the mediation. The court also noted Mr. Pappas' commitment to begin trial in
20 *Lovelace* as scheduled on October 5th.

21 On October 5, 2015, Mr. Pappas filed an emergency motion to continue the
22 *Lovelace* trial because of his daughter's medical condition. (*Lovelace* Dkt. # 267). Mr.
23 Pappas also noted his own decaying mental condition, and averred that he would not
24 be able to serve as effective counsel. *Id.* On October 7, 2015, the court granted the

25 ⁵ Mr. Pappas also provided the *Lovelace* court with a draft stipulation for the
26 *Acevedo* case continuing the MSC there; that draft was dated September 9, 2015,
27 and signed only by Pappas. Included with the stipulation was a declaration from
28 Mr. Pappas about the need to continue the *Acevedo* MSC. There is nothing on the
Acevedo docket indicating that this stipulation was ever presented to the *Acevedo*
court.

1 motion to continue trial, noting the tragic episode involving Mr. Pappas' daughter and
2 Mr. Pappas' own assessment that "*he is now and for the foreseeable future mentally*
3 *unfit and unprepared or both to effectively represent Lovelace.*" (Lovelace Dkt. # 275)
4 (emphasis added).

5 **D. Green Earth Center**

6 Mr. Pappas was counsel of record in *Green Earth Center, Inc., et al., v. City of*
7 *Long Beach, et al.*, Case No. SACV 13-0002 ALG. Mr. Pappas failed to appear at a
8 status conference on February 24, 2014. (*Green Earth Dkt. # 32*). The court then set a
9 hearing for March 10, 2014 on an order to show cause re sanctions for "failure to
10 appear this date, failure to prosecute, failure to file pretrial conference documents,
11 failure to seek relief from the discovery cutoff date, failure to follow the Court's rules
12 to seek continuance and failure to obey court rules." *Id.*

13 Mr. Pappas did appear at the March 10th OSC hearing, and the court discharged
14 the order to show cause. (*Green Earth Dkt. # 37*). The court then scheduled a pretrial
15 conference for August 18, 2014 and trial for September 2, 2014. *Id.*

16 Mr. Pappas failed to appear for the August 18, 2014 pretrial conference. (*Green*
17 *Earth Dkt. # 45*). Accordingly, the court dismissed the case "for plaintiff's failure to
18 appear this date, failure to prosecute, failure to obey Court orders and failure to file
19 pretrial conference documents among other reasons." *Id.*

20 During his interview with Section 3, Mr. Pappas acknowledged that he failed to
21 appear and failed to file the necessary pretrial documents. He asserted only vague
22 strategic reasons for doing so, having to do with a different potential criminal
23 investigation which he asserted would have impacted the plaintiffs' claims in *Green*
24 *Earth*. He claimed that his clients were informed and agreed to the strategic default.
25 When pressed as to why he did not simply seek to dismiss the claims, he resorted
26 again to only unexplained strategic reasons.

27 Section 3 of the Standing Committee did not find Mr. Pappas' explanation of
28 his failures in the *Green Earth* matter to be persuasive.

1 **E. Bensen**

2 Mr. Pappas filed the action *Jeffrey L. Bensen v. Murrieta Police Department, et*
3 *al.*, Case No. 8:15-cv-00436-AG on March 17, 2015. On July 17, 2015, the court
4 issued an order to show cause re dismissal for failure to prosecute. (*Bensen* Dkt. # 9).
5 Mr. Pappas filed no response to that order to show cause, and on August 12, 2015 the
6 court dismissed the case. (*Bensen* Dkt. # 10).

7 In his interview with Section 3, Mr. Pappas acknowledged that he never served
8 the summons and complaint in this case, and that the dismissal of the case was done
9 with the knowledge and support of his client. Mr. Pappas claimed that his clients'
10 goals had been achieved because shortly after Mr. Pappas filed the lawsuit, his client
11 received positive press attention from the filing of the lawsuit, such that his client felt
12 that he had been publicly rehabilitated.

13 **F. General**

14 During our interview, Mr. Pappas made two points repeatedly: 1) that his office
15 has had calendaring problems in the past and that he has taken steps to rectify the
16 problem; and 2) that he has suffered from and is continuing to suffer from significant
17 mental and emotional problems, and that he believes that at times he has verged (and
18 continues to verge) on suffering from a nervous breakdown.

19 As to his mental and emotional issues, he was suffering from these problems
20 during the *Nation*, *Acevedo* and *Lovelace* cases. He told Section 3 that he was
21 scheduled to see a psychiatrist the day following our interview (and also has a
22 contempt hearing scheduled that day in connection with his failure to pay support in
23 connection with his divorce). He stressed that he believes he is on the verge of a
24 mental breakdown and that he is no longer taking new cases. He is also trying to refer
25 his existing cases to new counsel.

26 As for the calendaring problems, Section 3 was not convinced by Mr. Pappas'
27 explanations that the steps he has taken will be sufficient to prevent further
28 calendaring breakdowns. As for Mr. Pappas' emotional state, while Mr. Pappas

1 presented himself appropriately and professionally during our interview, Section 3
2 does share a concern that Mr. Pappas needs professional treatment and care.

3 Mr. Pappas stated that he has had no prior disciplinary proceedings of any type
4 and has never been sued for malpractice by a client.

5 Finally, Mr. Pappas was cooperative during our interview and, on several
6 occasions stated that it was a challenge for him to keep it together mentally during our
7 interview.

8 **III. DISCUSSION**

9 California Rule of Professional Conduct 3-110 requires attorneys to act
10 competently in representing clients. Central District of California Local Rule 83-3.1.2
11 establishes that a breach of the California Rules of of Professional Conduct may form
12 the basis of discipline. Under Rule 3-110(B) “competence” “mean[s] to apply the 1)
13 diligence, 2) learning and skill, and 3) mental, emotional, and physical ability
14 reasonably necessary for the performance of such service.”

15 It is plain that Mr. Pappas has repeatedly demonstrated a lack of competence in
16 representing clients in the Central District of California. He has acknowledged that he
17 committed malpractice in the *Acevedo* case, and he demonstrated a significant lack of
18 judgment in failing to comply with court orders in the *Green Earth* and *Bensen*
19 matters. In the *Nation* matter, even accepting Mr. Pappas’ explanation that he failed to
20 appear for trial because of illness, his failure to appear at the pretrial conference and
21 order to show cause hearing further demonstrate a lack of competence.

22 Most concerning here is Mr. Pappas’ reason for not attending the *Nation* OSC
23 Hearing. Mr. Pappas was present in the courthouse, but did not appear in Judge
24 Wilson’s courtroom because of his emotional state. This fits squarely within
25 California Rule of Professional Conduct 3-110(B)’s competence requirement.
26 Moreover, it is also concerning that in the *Lovelace* case, the federal court in the
27 Middle District of Florida found that Mr. Pappas was “*now and for the foreseeable*
28 *future mentally unfit and unprepared or both to effectively represent*” his client.

1 We note Mr. Pappas's cooperation during our investigation, that he has no prior
2 public disciplinary proceedings, and that he was suffering from mental and emotional
3 stress during the time period in question.

4 **A. Recommendation⁶**

5 We recommend that Mr. Pappas be suspended for practice in the Central
6 District of California for a period of no less than six months and that before he may be
7 re-admitted to practice in this District, he must provide to the Standing Committee
8 under Local Rule 83-3.1.8, competent evidence of the following:

9 1. Successful completion of an MCLE course re law office management and
10 the acquisition of calendaring software;

11 2. Enrollment and continuing participation for a minimum of six months in
12 the State Bar of California's Lawyer Assistance Program for mental health
13 counseling;

14 and

15 3. Payment of the sanctions imposed by Judge Wilson in the amount of
16 \$3,263.01 in the *Nation* matter.

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⁶ On April 19, 2016, Section 3 advised Mr. Pappas of its recommended discipline and advised him of the procedural mechanisms available to him under Local Rule 83-3.1.5 should he wish to challenge the recommended discipline. Mr. Pappas did not respond to this notice.

1 We also recommend that:

2 4. Mr. Pappas be ordered to advise all clients he represents in matters pending
3 before the Central District of California of this discipline, within 10 Court days of
4 service of the order, and provide notice to the Standing Committee, including that he
5 be ordered to provide those clients a copy of the decision of the three judge panel of
6 the Court on this matter under Local Rule 83-3.1.7 and assist those clients in securing
7 counsel for their matters; and

8 5. That the California State Bar be notified of the Court’s decision on this
9 matter.

10 Dated: June 3, 2016

11

12 /s/ R. Alexander Pilmer /s/ Ronad J. Nessim /s/ Lei Lei Wang Ekvall

13 _____

14 R. Alexander Pilmer Ronald J. Nessim Lei Lei Wang Ekvall

15 Chair, Section 3
16 Central District Standing Committee
17 on Discipline

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:15-cv-00725-SVW-AS Date December 8, 2015
Title John Nation v. City of Long Beach et al

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

Proceedings: IN CHAMBERS ORDER RE ORDER TO SHOW CAUSE [31]

On December 1, 2015, the Court issued an order to show cause why Plaintiff counsel Matthew Pappas ("Pappas") should not be sanctioned for what appeared to be a pattern of disregard for the court's rules and schedules. Prior to issuing the order to show cause, Pappas engaged in the following behavior in this case:

- (1) Pappas failed to meaningfully engage in pre-trial proceedings. Pappas failed to designate or identify any expert witness under FRCP 26. Pappas did not file an opposition to Defense counsel's motion in limine. Pappas did not file any proposed jury instructions. Pappas did not cooperate with Defense counsel to jointly prepare pre-trial documents despite Defense counsel's efforts.
- (2) On November 20, 2015, Defense counsel deposed Plaintiff John Nation. Pappas did not meet with his client to prepare him for the deposition. Following the deposition, Defense counsel reminded Pappas of the upcoming pre-trial conference scheduled for November 23, 2015. Pappas did not appear at the pre-trial conference. As of the date of this Order, Pappas has still provided no explanation in any form as to his absence at the pre-trial conference.
- (3) On December 1, 2015, on the day of trial, Pappas did not make an appearance. Defense counsel, four police officer defendants, and Plaintiff John Nation appeared. A jury was called. Pappas did not return any calls from Defense counsel or the Court. Plaintiff indicated that he did not have any contact with Pappas since his deposition on November

Initials of Preparer

PMC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:15-cv-00725-SVW-AS Date December 8, 2015

Title John Nation v. City of Long Beach et al

20, 2015. Pappas's assistant, Sergio Sandoval, presented the Court with a vague and nondescript doctor's note from Oso Family Medical Group, dated November 30, 2015. Pappas did not provide any advance notice or contact the Court in any other manner. Sandoval stated that he had seen Pappas the prior morning in court for another proceeding and that he looked ill. Following Pappas's failure to appear at trial, the Court set the instant order to show cause to allow Pappas to explain his conduct.

The hearing on the order to show cause was called on December 8, 2015 at 10:00 a.m. Defense counsel stated his appearance. Pappas again failed to appear. The Court took a one-hour recess, but Pappas still did not appear. Plaintiff appeared and indicated that he still had not had any contact with Pappas since his deposition. Sandoval appeared. Hector Torres and Gabriel Silva of Oso Family Medical Group appeared.

Torres and Silva explained that on November 30, 2015, Pappas visited the clinic during urgent care hours complaining of a flu. They had not seen Pappas before. They took his vitals, which were all within normal range (e.g., temperature of 98.8 degrees, normal pulse, slightly above average blood pressure, normal oxidation levels). They prescribed Pappas Tamiflu. Pappas did not follow up or contact the Oso Family Medical Group again.

The Court has ample grounds for being suspicious of Pappas's flu, but finds that Pappas's conduct alone warrants the imposition of sanctions. Pappas has failed to participate in pre-trial proceedings, did not appear at the pre-trial conference (and has still provided no explanation for his absence), did not appear at trial, and did not appear at the instant order to show cause hearing (again with no explanation for his absence or notice to the Court).

However, rather than impose the extreme penalty of dismissing the case for failure to appear, failure to prosecute, and failure to obey Court orders, the Court instead sanctions Pappas: (1) \$1,800 for the cost of the jury panel called on December 1, 2015, and (2) \$1,463.01 for the cost to the City of Long Beach for the four officer defendants who appeared on the day of the trial. (See Declaration of Cynthia Martinez re: Cost of Attendance for Police Officer Defendants, Dkt. 37).

The Court notes further concern after an examination of Pappas's conduct in past cases. See, e.g., *Green Earth Center, Inc, et al v. City of Long Beach, CA, et al*, Case No. 8:13-cv-00002-AG-MLG, Dkt. 45, at *1 (C.D. Cal. Aug. 18, 2014); *Acevedo et al v. City of Anaheim et al*, Case No. 8:14-cv-01147-ODW-E, Dkt. 35, at *1-3 (C.D. Cal. Sept. 21, 2015); *Bensen v. Murrieta Police Department et al*, 8:15-cv-00436-AG-DFM, Dkt. 10, at *1 (C.D. Cal. Aug. 12, 2015); *James et al v. The City of Costa Mesa*

Initials of Preparer _____ : _____
PMC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

| | | | |
|----------|--|------|------------------|
| Case No. | 2:15-cv-00725-SVW-AS | Date | December 8, 2015 |
| Title | <i>John Nation v. City of Long Beach et al</i> | | |

California et al, Case No. 8:10-cv-00402-AG-MLG, Dkt. 80, at *1 (C.D. Cal. May 13, 2013). In light of what appears to be a pattern of disregard for court rules and schedules both in the present case as well as in past cases in this district, the Court finds it appropriate to refer Pappas to the Standing Committee on Discipline.

Therefore, the Court SANCTIONS Plaintiff counsel Matthew Pappas \$3,263.01 for his aforementioned conduct. The Court also REFERS Plaintiff counsel Matthew Pappas to the Standing Committee on Discipline.

| | |
|----------------------|-----------------|
| Initials of Preparer | : _____ |
| | _____ PMC _____ |

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

R. Alexander Pilmer
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Los Angeles, California 90071

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www.kirkland.com

Facsimile:
(213) 680-8500

December 14, 2015

BY CERTIFIED MAIL AND E-MAIL

Matthew S. Pappas
The Law Offices of Matthew Pappas
1719 E. Broadway
Long Beach, CA 90802

Dear Mr. Pappas:

Please be advised that the United States District Court, Central District Standing Committee on Discipline has received a referral from the Honorable Stephen V. Wilson, United States District Court Judge, regarding conduct occurring in connection with your representation in *John Nation v. City of Long Beach, et al.*, Case No. 2:15-cv-00725-SVW-AS.

I have enclosed a copy of the complaint we received regarding this referral. Your matter has been assigned to Section 3 of the Standing Committee for investigation. Following its investigation, Section 3 will report to the full Standing Committee. The full Standing Committee then will make a recommendation to the District Court regarding disposition of this matter; this recommendation could range from no action to more serious disciplinary actions, including potentially disbarment, as provided in Central District of California Local Rule 83-3.

We invite you to provide a written response to the allegations, along with any supporting documentation. Please provide your written response and any supporting documentation you would like us to consider, no later than two weeks after the date of this letter. Should you require additional time to respond, please feel free to contact me.

Thank you for your anticipated cooperation.

Very truly yours,



R. Alexander Pilmer
Chairperson, Section 3
Central District Standing Committee
on Discipline

RAP:rt
Enclosures
cc: Jeff Westerman
Ron Nessim

MATTHEW S. PAPPAS
ATTORNEY

E-MAIL:
OFFICE@MATTPAPPASLAW.COM

1719 E. BROADWAY
LONG BEACH, CA 90802

(949) 382-1485
FACSIMILE: (949) 382-1512

December 29, 2015

VIA U.S. MAIL, FACSIMILE AND E-MAIL
213-680-8500

Mr. R. Alexander Pilmer
Kirkland and Ellis
333 S. Hope Street
Los Angeles, CA 90071

Re: Disciplinary Action

Dear Mr. Pilmer:

I'm here in Wiesbaden, Germany visiting my son who is serving in the U.S. Army.

Let me first address the disciplinary inquiry. I was sick on December 1. Attorneys are human and subject to illness. I was in Washington State for the Thanksgiving holiday and flew back two days before trial. The day before trial, I was in court in Long Beach and already coughing. I had an assistant drive me back to my house where I promptly laid down. Thinking I had the flu, I went to an UrgentCare because I'd read somewhere or heard from someone that TamiFlu - the only medicine I was aware of that could help cure the flu - needed to be taken within a day or two of contracting the illness. I was prescribed TamiFlu as well as Promenazine for the cough. While I was in the waiting room, the woman at the front offered me water as I sat feeling terrible in a chair coughing. I was in bed the next few days and was in utterly no shape to get out of bed. I did not make calls, go out or do anything during that time. The assistant that drove me home contracted the flu. My 15-year-old daughter had it for several days. I'm nearly 50 - it lasted more than a week. I am human - I was sick - this entire inquiry makes being a lawyer the worst job anyone could have. It is incredible that I would now be being disciplined because I contracted the flu. I still have a nagging cough that is far less frequent, but nonetheless occurs.

Mr. R. Alexander Pilmer
December 29, 2015
Page Two

I believe prosecuting attorneys have a duty to seek the truth. This inquiry was not brought on by Judge Wilson, but was started by the Long Beach City Attorney's office. That office inflamed the judge by reporting only partial information to him. Mr. Russell of that office did not tell Judge Wilson that the warrant case from 2013 he was using to discredit me was dismissed in 2014 after my assistant Sergio Sandoval and retired Deputy L.A.P.D. Deputy Chief Stephen Downing met with high level officials of the public integrity unit of the L.A. District Attorney's Office in downtown Los Angeles on July 15, 2013. I was asked during that meeting not to disseminate certain information and so made the decision not to proceed with that case given it required the information we had turned-over and reported to the D.A.'s office. He didn't report that, but instead reported a "pattern." What about the cases I've won against Long Beach - did he report those? Did he report the stays put on over ten cases by the Complex Litigation court or the ongoing animosity his office has exhibited repeatedly?

Since 2010, when I filed the *Pack v. Long Beach* case that resulted in a major loss for the Long Beach City Attorney's office, I have been at odds with that office. I am certain Mr. Russell did not tell Judge Wilson that I ran against City Attorney Charles Parkin for the office of Long Beach City Attorney in 2014. I am certain he did not tell the judge that after I won the *Pack* case in October, 2011 and thereafter applied for a business license in the City of Long Beach that I was denied that license and cited at least four (4) times for misdemeanor violations that later were dismissed in the interest of justice after I had to request help from the California Attorney General. I am certain he did not tell the judge that there was no basis for the business license denial. He most certainly did not tell Judge Wilson that I was called in by the F.B.I. in April, 2012 to discuss city corruption. He did not tell the judge about the intense conflagration that took place after national coverage in 2012 of a video in a case handled by me of a Long Beach Police Officer kicking an African-American man and allegations of use of the "N" word by officers during that incident.

I am certain Mr. Russell did not report to Judge Wilson the pressure placed on the Long Beach Police Department by my campaign speeches and debates as well as press coverage of the issue of police shootings in that city. He did not report that the Long Beach Police Officer's Association backed his boss - Charles Parkin - the man I lost the election to - and spent more money - nearly \$400,000.00 on the City Attorney's race than it did on all other Long Beach races combined and more than it had

Mr. R. Alexander Pilmer
December 29, 2015
Page Three

ever spent previously on a campaign. You need only do a “Google” search to see the level of acrimony that has gone on between that office and me over the last few years.

I was sick on December 1. I was sick until the middle of the following week. I did nothing wrong. Since 2010, at least 40-50% of my work has been *pro bono*. As I told the California Supreme Court in a declaration I filed in 2012, why would anyone want to be a lawyer trying to make positive change? Why would any lawyer want to take on important issues and fight to make important changes? There’s no reason to – you end up getting attacked – you end up getting disciplined for being sick – you end up being unable to sleep at night because you got sick, thought you did the right things to get over that sickness as quickly as you could and then attacked, vilified and placed in jeopardy by people who’ve lost to you repeatedly and who want to continue the status quo – power, corruption and supporting people who are harming others.

You should talk to Crystal Meyers – an attorney out in Yucca Valley. She has been put through similar tactics. She used to work for the Long Beach City Attorney. That office needs to be disciplined. They found another way to attack me and they have. Now I’m having sleepless nights, unable to do my work because I’m under this attack by them again and worried about death threats I’ve gotten almost certainly from police officers. Why is it – after Judge Wilson ruled I should pay sanctions when I was sick – that officers were observed “high fiving” one another in the hallway of the courthouse? This is an attack by them – they should be investigated – they had a duty to provide more than what they did to Judge Wilson and they provided him only with limited information designed to make me look bad when I am not bad. You take a look at what I do and you’ll see I’m out trying to make a difference – not win by attacking those who dare challenge the Peoples Republic of Long Beach.

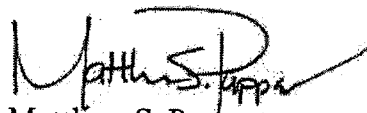
I’m a lawyer because I want to make a difference – not to make money. I was sick on December 1. You know what you really should be disciplining me for? I thought that a Motion for Summary Judgement had been vacated and was not keeping my eye on the ball in part because I was sick and in part because of this whole debacle in an important civil rights case involving the City of Anaheim – the case is *Acevedo v. City of Anaheim*. Much to my surprise, that motion had been reset and I did not file an opposition – Judge Wright dismissed that case on January 6. I was really sick in the *Nation* case – but I really screwed up in *Acevedo* by not keeping my eye on the ball.

Mr. R. Alexander Pilmer
December 29, 2015
Page Four

You should discipline and disbar lawyers who get sick. You should allow government to vilify with impunity, tell only a quarter of the information to the Judge and get away with it when seeking to get someone in trouble who had contracted the flu. That's how we should do things.

Please see the attachments. I assume I'll be disbarred for being sick for over a week - what a wonderful profession. I apologize to Judge Wilson and to you that I contracted the flu and was literally in bed for days.

Very truly yours,


Matthew S. Pappas

MSP;jm

Encl.

MATTHEW S. PAPPAS
A T T O R N E Y

(949) 371-7811
MAT.PAPPAS@MATTPAPPASLAW.COM

24611 SPADRA LANE
MISSION VIEJO, CA 92691

LEGAL ASSISTANT:
DIVINA MAGARIFUCHI

August 24, 2010

VIA E-MAIL AND FIRST CLASS MAIL

Mr. Paul Violas
Attorney
100 Oceangate Ste 1200
Long Beach, CA 90802

Re: Long Beach Medical Marijuana Ordinance 10-0007

Dear Paul:

I've talked with my dad regarding the phone conversation he had with you last week. Several months ago, I read a caustic unsolicited email sent by you to him.

First, my goal in regard to the medical marijuana issue is to ensure disabled and seriously ill people who have been recommended medical marijuana by a physician have access to that medication. While patients who have been prescribed drugs like Vicodin and Oxycontin are able to have their prescriptions filled without worrying about police raids, arrests and inconsistent access, medical marijuana patients are not so fortunate. Since 1996, medical marijuana patients have been arrested, jailed, raided, and regularly worry about whether medication is available simply because the medication they use is effective for them instead of more dangerous drugs. After nearly fifteen (15) years, these barriers continue to hamper patients. After countless legal and political efforts, the disabled and seriously ill people who use medical marijuana to treat their conditions, many of whom have, over the same period, died from cancer and other sicknesses, are still faced with police raids, efforts by the cities to treat them differently, arrest, detainment, and a host of other obstacles.

I'm writing because I'm concerned about a comment you made to my dad in the above referenced phone conversation you had with him last week. Specifically, the comment that you have "contacts in City Hall" and that you are not worried about eventual approval of your client's application. Normally, I would not spend any time on the kind of baseless threats and comments hurled at me like those included in your first unsolicited email to my dad. I certainly think he should have responded and I support his response -- especially in light of the threats of lawsuit and State Bar complaints you included. Your attack and threats were certainly not the first I've received while working on behalf of the disabled and seriously ill. However, the comment you made to my dad about having contacts in City Hall concerns me because there are thousands of patients that belong to collectives that do not benefit from the type of "special" relationship

Mr. Paul Violas
August 24, 2010
Page Two

that apparently will ensure approval of your client's license application. I understand the vitriol and positioning by attorneys that would prefer to maintain the *status quo* in order to keep extensive and continuous medical marijuana related business flowing. I represent disabled plaintiffs in a case that seeks to eliminate the vague rules and policies that provide this continuous flow of civil and criminal cases for a number of lawyers. Naturally, those attorneys will do all they can to creatively thwart our efforts and I'm not going to deviate or lose focus as a result of rumors, attacks and threats. However, if people have special political influence because of contacts or through other mechanisms, then it is not only appropriate but very necessary for me to address potential foul play.

If you are aware of any inappropriate influence peddling or special treatment by elected or administrative officials, I believe you must notify state or federal authorities. If you are involved in this kind of thing – if the contacts are yours -- I'm very concerned. On the other hand, there may be some prohibition in terms of reporting because of the attorney-client privilege. I'm researching what my duties are in regard to this situation. It is very disconcerting that there is even an indication that something is awry in this area when such behavior affects people who are dying, seriously ill or disabled.

Again, I am used to untrue statements made by people about me including rumors that I have been disbarred twice, that I have been subject to continuous bar discipline, and that I've been disbarred in other states. I've been subjected to attacks in the media alleging my clients' case is frivolous and that the subject matter was already decided "*many times.*" I have been threatened by city politicians as well as by lawyers. I expect those kinds of comments, innuendo, threats and rumors. I did not expect to hear that special political access is being used in a way that ensures one group of patients will have access while other groups will be denied.

Please clarify what special access and relationships exist in City Hall that will ensure license application approval?

Thank you for your attention to this matter.

Very truly yours,



Matthew Pappas

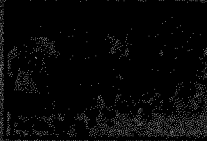
MSP:dg

Press-Telegram

48,999 READERS WEEKLY LONG BEACH, CALIFORNIA

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STEVE JOBS, 1955-2011

Apple co-founder dies

OBITUARY: His innovations made the technical personal

By James Babington The Associated Press

LONG BEACH — Steve Jobs, the Apple co-founder and CEO who changed and redefined modern technology, died Tuesday of pancreatic cancer, according to the personal website he created and named for

him. He was 56. Jobs announced his death Tuesday on a personal website.

"We are deeply saddened by the passing of our dear friend and colleague, Steve Jobs," said Jobs' widow, Laurene Powell Jobs.

"Steve's leadership, passion and energy were the heart of our most successful products and helped us get to where we are today. The world is immeasurably better because of Steve."

Jobs had worked at Atari in 1976 and later

at Hewlett-Packard in 1977, where he met and married a woman named Joanna. He then worked at Xerox in 1979, where he met and married Laurene. Jobs joined Apple in 1976, and became CEO in 1977. He was ousted in 1985, but returned in 1997. He led Apple to its greatest success with the iPhone, which he introduced in 2007. He died in 2011.



Steve Jobs, co-founder and CEO of Apple Inc., is seen in a portrait. He died Tuesday of pancreatic cancer, according to the personal website he created and named for him.

CERRITOS COLLEGE



A group of Cerritos College students and faculty members are seen in a meeting. The group is gathered around a table, and some are looking at documents. The setting appears to be a classroom or a meeting room.

Building for the future

By [Name] [Date]

LB pot law held invalid

COURTS Invalidated city's pot law

The court ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

The court also ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

The court also ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

The court also ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

"The council was made to understand from the get-go that this was problematic."

POT LAW

Long Beach City Council ruled Tuesday that the city's pot law is unconstitutional because it discriminates against non-residents.

The city council ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

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The city council ruled that the city's pot law is unconstitutional because it discriminates against non-residents.

Mesothelioma

Even Bankrupt Companies Must Pay

Deborah's Breast Cancer Awareness Month. Breast cancer affects one in eight women during their lives.

LONG BEACH CITY PROSECUTOR
333 West Ocean Boulevard
2nd Floor, City Hall
Long Beach, California 90802
TELEPHONE: (562) 570-5600

March 1, 2012

Law Offices of Matthew Scott Pappas
4340 Atlantic Ave
Long Beach, CA 90805

Re: **People v. MATTHEW SCOTT PAPPAS**

Dear Mr. Pappas:

A criminal complaint has been filed in Long Beach Superior Court alleging that you committed a violation of LBMC3.80.210, a misdemeanor(s).

Your arraignment on these charges has been set for **MARCH 16, 2012** at 8:30AM, Department D/7, 3rd Floor of the Long Beach Superior Court Building, 415 West Ocean Boulevard, Long Beach, California 90802. If you fail to appear as indicated above, a warrant for your arrest may be issued immediately.

Yours very truly,



DOUGLAS P. HAUBERT - SBN 205956
CITY PROSECUTOR

DPH:CG:mep

LONG BEACH CITY PROSECUTOR
333 West Ocean Boulevard
2nd Floor, City Hall
Long Beach, California 90802
TELEPHONE: (562) 570-5600

January 12, 2012

Matthew Scott Pappas
Attorney At Law
4340 Atlantic Ave
Long Beach, CA 90805

Re: People v. MATTHEW SCOTT PAPPAS

Dear Mr. Pappas:

A criminal complaint has been filed in Long Beach Superior Court alleging that you committed a violation of LBMC3.80.210, a misdemeanor(s).

Your arraignment on these charges has been set for **FEBRUARY 1, 2012** at 8:03AM, Department D/7, 3rd Floor of the Long Beach Superior Court Building, 415 West Ocean Boulevard, Long Beach, California 90802. If you fail to appear as indicated above, a warrant for your arrest may be issued immediately.

Yours very truly,



DOUGLAS P. HAUBERT – SBN 205956
CITY PROSECUTOR

DPH:CG: tm

OFFICES OF
CITY PROSECUTING ATTORNEY
OF LONG BEACH
CITY HALL - 2ND FLOOR
333 WEST OCEAN BOULEVARD
LONG BEACH, CALIFORNIA 90802
(562) 570-5600

2-1-2012

Matthew Pappas
4340 Atlantic Ave.
Long Beach, Ca. 90805

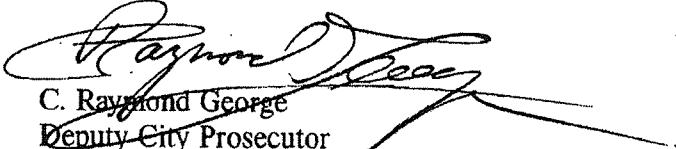
Re: People v. Pappas
Long Beach Superior Case Number: 2LG00127

Dear Mr. Pappas:

You were due to appear in court today, in Department 7 for an arraignment on the above case (see attached). Your failure to appear resulted in a bench warrant being issued for your arrest; however, for your benefit, the warrant is being held until the next court date so you may appear and take responsibility for this situation.

The case was continued for arraignment until Friday, February 17, 2012 at 08:30 A.M. in Department 7 (3rd floor) of the Long Beach Court house. If you want to avoid being arrested, it is imperative you appear in court on that date. If you fail to appear, the warrant will be released and you will be subject to immediate arrest.

Yours very truly,


C. Raymond George
Deputy City Prosecutor

DPH:CRG:cg



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

April 9, 2012

PRINCIPAL DEPUTIES

Dominic Holzhans
Anne C. Lattime
Monte H. Machit
J. Charles Parkin

DEPUTIES

C. Geoffrey Alfred
Gary J. Anderson
Richard F. Anthony
Amy R. Burton
Kendra L. Carney
Christina L. Checel
Charles M. Gale
Barbara J. McTigue
Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin
Linda Trang
Theodore B. Zinger

VIA E-MAIL MATT.PAPPAS@MATTPAPPASLAW.COM AND FIRST CLASS U.S. MAIL

Matthew S. Pappas, Esq.
22641 Lake Forest Dr., Ste. B5-107
Lake Forest, California 92630-1726

RE: *City v. 562 Collective, et al.*,
LASC Case Number: NC055751
Stay of Action – No Depositions – Answer to Cross-Complaint

Dear Mr. Pappas:

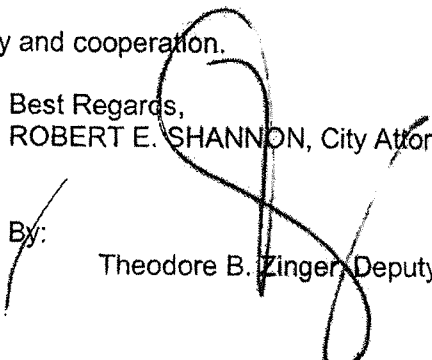
I have been asked to respond to your April 9, 2012 e-mail and letter to DCA Kendra Carney regarding her deposition and the deposition of Erik Sund. Upon review of the file, I was unable to locate notices of deposition for either Mr. Sund or Ms. Carney. Moreover, as you should recall, we appeared at the status conference in the above referenced matter on February 24, 2012. At that time, the court ordered this matter stayed pending review of the *Pak* case by the California Supreme Court. Although notice was waived, attached herewith is the Notice of Ruling that will be filed. A further status conference is set for 8:30 a.m. in Department B on August 23, 2012.

Based on the court's action staying the above referenced matter, it would be improper for you to attempt to depose anyone. Also, based on the stay, I do not believe that it is proper to demand a responsive pleading to be filed. Thus, neither Mr. Sund nor Ms. Carney will be appearing for their depositions nor will the City be filing a responsive pleading until such time as the stay is lifted and proper notice for deposition is affected.

Should you have a different position regarding the status of the case, please contact me at your earliest convenience so that we may discuss and resolve any issues.

Thank you for your professional courtesy and cooperation.

Best Regards,
ROBERT E. SHANNON, City Attorney

By: 
Theodore B. Zinger, Deputy

TBZ

Stephen Downing

152 La Verne Avenue
Long Beach, CA 90803
Phone: 562 433 4043
E-Mail: Steve@sonarnetworks.com

May 10, 2014

Mr. Brandon Fox
Deputy Chief In Charge, Public Corruption and Civil Rights
Department of Justice, Central Distreict of California
312 North Spring Street
Suite 1200
Los Angeles, CA. 90012

VIA EMAIL

Dear Mr. Fox:

I was recently contacted by members of a law firm whose client informed them of an on-going conspiracy involving a criminal medical marijuana organization in Long Beach that routinely pays bribes to members of the Long Beach Police Department drug enforcement unit.

Because of my law enforcement background they asked if I would take part in an interview of the client, assess her credibility and advise if and/or how her allegations should be reported to authorities. I agreed.

After two interview sessions and several clarification follow-ups I can report with confidence that the client, Stacy Carcereny, 22, is not only credible but also has an excellent memory.

Stacy Cacereny was hired as a bud tender by the organizations' main supervisor, Brandice Bogg (aka Brandy), in August 2013. During the time of her employment between August 2013 and January 2014 she worked at or visited six (6) of the organizations' seventeen (17) dispensary locations. During this period she learned the organization methods of operation, money handling, surveillance techniques and, over time, met all four of Brandy's bosses (by first name or moniker only), the owners of the criminal Med Pot organization.

In addition to the dispensaries, Carcereny provided information related to money drop locations used by the organization, the location of their 'office' or headquarters, descriptions of key conspirators and their residences, the vehicles they drive and many telephone numbers associated with both business operations and police payoff arrangements.

During the time of her employment Carcereny was present when the LBPd drug enforcement unit conducted five (5) raids of the various organization dispensaries without warrants, seized money and product, used excessive force and left no receipts for personal funds or marijuana seized from employees. In the first three raids the employees were issued citations. In the last two, they were arrested.

Because of her presence at each of the raids, Cacereny is able to identify all of the officers involved in taking bribes from the organization.

During her employment there were three occasions in which the same LBPd drug unit officer ("Chinky Eyes") entered the dispensary, went to the back room and obtained a bag of money in a handoff from one of the bosses (Tim), who used a dispensary worker (Chris Durdines) to deliver the money to the officer while he remained hidden behind a curtain.

In the latter part of November, following the third raid, Carcereny was promoted and became Brandy's assistant. Brandy told her that she was going to show her "why we don't get arrested." On that night Carcereny accompanied Brandy to the first of what would become a total of eight (8) Friday night payoffs to Long Beach drug unit officers between the latter part of November and her termination from the organization in the latter part of January 2014.

The M.O. for each pay off would include packaging the money (and occasionally marijuana) for the payoff and then meeting the officers at a pre-arranged parking lot location. The locations included the CVC pharmacy in downtown Long Beach, Walgreen's near Anaheim and Cherry, Alex's Bar on Gladys and Anaheim or the Liquid Lounge at 3522 Anaheim Blvd.

Carcereny would remain in the passenger seat of Brandy's vehicle and observe as Brandy exited her vehicle and made the hand off of the money package to a drug unit officer.

On each of the eight payoffs observed by Carcereny, the vehicle driven by the officers was either the drug units green raid van or a black Chrysler Victoria. The passenger officer was always the same individual while the driver officer, who exited the vehicle and took the money (and product) package from Brandy, was a different officer each time. Thus, Carcereny can identify a total of nine (9) drug unit officers involved in taking bribes. ("Chinky Eyes" was the driver officer at payoff #3).

At the time of her termination Carcereny learned that Brandy was "moving up" in the organization and that one of the dispensary managers, Jesse Jimenez, took her place as supervisor which included "doing the dirty work" of making the Friday night payoffs to the drug unit officers.

I recently drove past the four of the six dispensary locations and determined that, in spite of the Long Beach ban, all continue in operation.

The following link is to an article published in RLn, a Long Beach on-line media company which sheds additional light on the LBPD drug units handling of Med Pot raids that may assist both as a supplemental lead to this investigation as well as insight into the lack of administrative oversight that may have served to create a sense of impunity within the LBPD rank and file as well as a growth of institutional corruption inside the Long Beach city bureaucracy. <http://www.randomlengthsnews.com/lbpd-no-public-records-exist-pertaining-to-medpot-raids/>

Attached is a chronology of the interviews and detailed specifics related to the players involved in the bribery scheme that should serve to provide the core basics for gathering evidence related to, and initiating, a public corruption investigation and surveillance of the Friday night payoffs by the criminal organization to the Long Beach drug enforcement squad.

Also available upon request is a video recording and transcript of several hours of the first interview with Carcereny, as well as information related to recent threats made to Carcereny by Brandy, who has come to believe that she is "talking."

Please feel free to contact me at any time to assist in the furtherance of this investigation should you choose to take it on. In the event a decision is made that an investigation will not be initiated please let me know so that we may consider other alternatives to expose this public corruption in Long Beach.

Sincerely,

Stephen Downing
Long Beach Resident
Deputy Chief, LAPD (ret.)

Interview of Stacy Carcereny related to police corruption in the City of Long Beach, CA as reported by Stephen Downing, Long Beach Resident and retired LAPD deputy chief of police.

Background:

On April 17, 2014 I met with John Pappas, a retired attorney and father of Matthew Pappas, a practicing attorney and recent candidate for Long Beach City Attorney (finished 3rd in the April 8, 2014 primary election and is no longer running), who recently took on representation of Stacy Carcereny (Subject) for misdemeanor citation/arrest violations enforced by members of the LBPB narcotic unit.

The citations and arrests are related to Subjects' employment with a medical marijuana dispensary organization.

At the April 17 meeting John Pappas outlined a conversation he had with Subject earlier in the week in which she described incidents of bribery that she witnessed involving members of the Long Beach Police Department (LBPB) drug enforcement unit.

Because of my law enforcement background and prior association with his son, John Pappas asked if I would take part in an interview of Subject, assess her credibility and advise if and/or how the allegations should be reported to authorities. I agreed.

On April 21, I met with Subject at my home at 152 LaVerne Avenue, Long Beach CA. between 1PM and 6:30 PM. Others present during the 5-½ hour interview included John Pappas, Matthew Pappas, Sergio Sandoval, a Pappas associate, and Jose Abin, Subjects' fiancée.

The first few hours of the interview were video taped. The camera batteries ran out and the interview continued. A transcript of that portion of the interview is available as well as the video.

On April 29 I met with Subject at my home for a follow up interview between 4PM and 6:00 PM. Present at that time were Subject, Sergio Sandoval and Jose Abin. The interview was conducted to continue and clarify information related at the first interview. We ran short of time and made arrangements for a third follow up meeting the next day.

Subject was able to obtain a new job the following day and put off the meeting until the following Wednesday.

On May 4, Mr. Sandoval received a frantic call from Subject who stated that she received a call from Brandy (a conspirator who is further identified in this report) who informed her that she had been told that Subject had been talking about what she had seen while in her employ. She said that she heard that she had a meeting with Mr. Pappas and two Long Beach police officers (not true) and that she was going to place a call to Pappas.

Brandy then threatened subject saying that she had photos of Subject counting money and that "we will say that you were the one doing everything." Brandy also stated that, "Pookie is looking for you." Brandy further told her that Pookie (the organization boss) had taken the last person who talked out to the desert, tortured them and cut off their penis. Brandy also stated that, "I sent your picture to DeStafano." (Destafano is a LBPB narcotic detective). Brandy did not specify the purpose of sending the picture but Subject interpreted it as an implied threat.

After speaking with Matthew Pappas about the situation, and Mr. Pappas making several phone calls to ease the situation, Mr. Sandoval arranged to meet with Subject at her home in Ontario the following day to finish the interview follow up questions. In spite of her fear, she agreed.

Mr. Sandoval proceeded to Ontario on May 5 and tried to contact Subject. They exchanged several texts (available) in which she ultimately pleads that she had an emergency with her family and would be unable to make contact.

Mr. Sandoval has been unable to make contact with Subject since that time. Thus, a decision was made to put down the results of the interviews sans the clarifications that we would like to have made.

The results of the interviews follow:

The Subject: Stacy Carcereny AKA "Ace" and "Stephanie."

DOB: 10/31/92

Address: Currently resides in Ontario, California

Phone: 646 934 9843 (cell)

Patient Status: Subject is a cancer patient suffering stage three ovarian cancers. She uses medical marijuana in addition to traditional medical therapies

Employment: Beginning the last week of August 2013 Subject was employed by TCC, a medical marijuana dispensary at 1085 Redondo Blvd., Long Beach.

Subject gained employment through an acquaintance, **Brandice Bogg, (AKA's Brandy, Gabby, Mama)**, who is employed by the organization in a top management capacity. Brandy is most often called "Mama," because of her position in the organization.

Brandy lives in Alhambra, and is reportedly a part owner of the "Republic Bar" in Covina.

Brandy is in her early 20's, 5'1", petite, light complexion, black hair, blue eyes and has a dragon Tattoo on her right side, beginning at her armpit and running down to her thigh.

Brandy's personal telephone is **909 224 1094**.

Subject states that Brandy uses a "Burn" or "throwaway" phone for business related communication, including calls to LBPD narcotic officers on payoff nights when the officer's are either late or to set up the meeting.

Subject states that Brandy is very paranoid and disposes of her Burn Phone every two weeks.

Brandy drives three vehicles:

1. V.W. Silver in color
2. Jeep, 4x4, green in color
3. Toyota pick up, silver in color.

Brandy always carries cash in the glove compartment of the vehicle she is driving.

Subject had previously worked at another dispensary in Long Beach with Brandy, not associated with this organization. Both worked as "bud tenders."

In her new job, Subject started at \$10 per hour and received personal use meds and cash bonuses depending on sales volume.

During the course of her employment Subject was also rotated to work as a bud tender at other organization dispensaries (the list follows) supervised by Brandy and was later put on a salary of \$4,000 per month, plus bonus and meds, when she was elevated to become Brandy's assistant. At this time her duties expanded, which included making money drops and later accompanying Brandy when making pay offs to LBPD narcotic officers.

Brandy terminated subject in the latter part of January 2014.

Subject stated the termination involved personal reasons in addition to the fact that at the time Brandy was looking to elevate either Subject or the manager of the OGD dispensary on Atlantic Blvd., Jesse Jimenez, to take over her position as she was 'moving up' in the organization.

Brandy stated to Subject that she had to evaluate the comparative value of Subject and Jimenez to the organization and Brandy chose to retain Jimenez because he was better able to "do the dirty work" that the organization required.

The 'dirty work', according to subject, was for Jimenez to assume Brandy's functions which included meeting and paying off the LBPB narcotic officers.

Jesse Jimenez, AKA "J", "Wax Master" and "Waxy J" is described as a Male, Colombian, 25, 5'8" 140 lbs. with a thin build, pale complexion, black hair worn in dreadlocks, blue-green eyes, a broken "boxer's" nose and wears small square glasses. Tattoos include Hebrew letters on the back of his neck, "Pomona" across his chest and Gang numbers and letters on the front of his legs just above the knees.

Jesse lives on Lemon Street in Fontana. Subject says that since assuming his new position he often stays over at the "Office." (More on the "Office" or "Safe house" later).

Jesse's phone numbers acquired by Subject include:

1. **562 533 4649** (this is Jesse's throwaway phone and is now most likely used to contact LBPB narcotic officer's, if required, on payoff nights).
2. **909 782 3036**. This is Jesse's personal phone.

Jesse drives two different vehicles:

1. Honda, 2009, 4 door, black with a "Hello Kitty" sticker on the gas tank cap.
2. Honda, 2 door, white

The Organization:

After being hired by Brandy in August 2013 Subject learned the following about the organization:

That the organization runs at least six dispensaries known to Subject, but she has heard that the total is 17 and all 17 are (or were) supervised by Brandy.

The dispensaries that Subject worked in and/or visited include:

1. TCC at 1085 Redondo Ave., Long Beach.
2. DPG on the corner of Anaheim and Cherry, Long Beach
3. OGD at 2447 Atlantic Blvd., Long Beach
4. NTSD on Long Beach Blvd. in Compton
5. DOGO in Compton
6. THC on Crenshaw Blvd. in Los Angeles

The security protocol for the organization requires that employees, as well as the owners, use code or faux names only. Subject used the name "Ace" and "Stephanie."

Subject stated that each of the dispensaries have two web based cameras hidden in an alarm clock. One in the showroom and one in the backroom.

Subject stated that the cameras are monitored at the "Office" and believes them to be monitored from "Tim's" apartment as well as "Turtles" home. (More on these locations later). Subject stated that the LBPB officers do not know about the concealed cameras.

Subject stated that SWANN equipment and installers are used by the organization for security camera purchase and installation.

Subject has met the owners of the organization during the period of her employment. They include:

1. **Steve, AKA's "Papa" and "Pookie."** Male, Mexican, 5'6 or 7" – 150 lbs. chunky build, dark skin, mustache, black hair, brown eyes, tattoos sleeved on one arm and partial on the other. Usually wears shorts, T-shirt and baseball cap.

Subject's understanding of the operation is that Steve has direct contact with LBPB narcotic officers to arrange payoffs.

Steve is most often referred to as "Papa" within the organization and is recognized as the most influential and authoritative of the owners.

Subject stated that Steve never worked at any of the dispensaries, that he would always just show up to either pick up money or to drop off meds (marijuana products).

Steve's personal phone number, acquired by subject, is: **562 237 1827**.

2. **Timothy AKA, "T" and "Tim"** – Male, Mexican, 5'6", 150 lbs., chunky build, tan complexion, black hair worn in a long ponytail, brown eyes, plugs in ears, tattoos all over his body. Rose tattoo on the front of his neck. Both arms are sleeved with tattoos. Usual dress: black T-shirt, beige pants and baseball cap.

Timothy does not drive. He rides the bus, uses a taxi or is driven by employees. He was/is a manager at TCC.

Timothy has two phones: **562 335 8327** (Burn Phone) and **626 379 9249** (personal).

Timothy lives in an Apartment on top of the Bull Bar located at 3316 E. 7th Street, Long Beach.

3. **Turtle**, male Mexican/Cauc mix, 30's, 5'8", 130 pounds, muscular, light skinned, dirty blonde hair, green eyes, tattoos on upper arms. Usually wears Jeans and White T-shirts. He does not drive a car.

Turtle lives at 427 Newport Avenue, Long Beach.

4. **Richard, aka Willi.** Male, Mexican, 5'2", heavy and round, tan complexion, bald, wears a beard, brown eyes, usual dress is a "Hoodie" sweater and jeans.

Steve and Richard are brothers. Timothy is a cousin to Steve and Richard.

One of the main growers for the organization is a Samoan whose code name is **Toa**. He occasionally works at TCC. He reportedly grows marijuana in Fontana. Subject says she has heard that he is "busted" monthly but never goes to jail.

The organization maintains what they refer to as a "Hideaway" "Safe House" or "the office," which is an apartment located in the building at 2120 Hill Street, Signal Hill.

The owners use the location to stash money, receive product from vendors and sleep over on Friday and Saturday nights. Money is stashed in every possible hiding place. Subject, on one occasion obtained bribe money from the refrigerator freezer and on another, from the tank in the bathroom toilet, which is dry. On both occasions Brandy identified the hideaway locations to her.

The "Office" location has electronic monitors and recording devices used to monitor Internet based cameras installed in the dispensary locations.

The subject does not remember the Apt. Number, but can provide directions to the first floor apartment when entering the building. She says the apartment door bears a large, red plastic Christmas bow. The bow was placed there to enable vendors to find the apartment.

A woman named **Molly** holds down the office on most days. She is described as Female, Cauc, 20's 5'7", skinny, dyed blonde hair.

Subject says that Molly use to date Turtle.

Molly drives a 2014 Chrysler, 4 door, black. There is no license plate on the car at this time.

Brandy has been elevated in the organization since Subjects termination and reportedly receives a percentage of the profits in addition to salary.

Other former employees of the organization who Subject believes would be willing to come forward and testify include:

1. **Rosa Garcia**: in one raid by LBPB narcotic officers, Rosa was chased out the back door and shot in the buttock by a rubber bullet. The officers apprehended her hiding beneath a vehicle. She had close to \$100 in her bra, which they took. She was written a citation and released. Her money was not returned, nor did she get a receipt for it.

2. **Illyana**

3. **Julisa Salitudo**

The organizations' method of operation for money handling is to generally have employees wrap money receipts in brown paper bags and attach a sticker that is color coded to identify the dispensary from which the money comes.

Employees are required to wrap monies in \$1,000 bundles and either hides the money for pick up, usually by Brandy, or travel, usually by taxi, and "drop" the proceeds at one of three locations:

1. Turtles house located at 427 Newport Ave., Long Beach.
2. Tim's apartment above the Bull Bar located at 3316 E. 7th Street, Long Beach.
3. The Office, an apartment at 2120 Hill Street, Signal Hill.

The color codes are:

TCC – Green
DPG – Blue
OGD – Yellow

Subject does not know the color codes for NTSD or DOGO. She also states that THC has no color code, as it is the "Mother" location.

The method of hiding money at the TCC dispensary is in fake food cans, which include a Campbell's Soup can, a green Lava Coffee can a Wafer Cookie can and a Pineapple can.

TCC also has a secret room concealed by filing cabinets. This room is used by employees and owners to hide product and occasionally, personnel during police raids.

TCC generally generated \$25,000 per day in sales.

The method of counting and packaging money at TCC is to rubber band each one thousand dollar bundle and then put it in a brown bag. Then the numerous brown bags are placed in another brown bag, stapled, stuffed into a Ziploc bag and placed in either a purse or backpack for delivery.

Subject stated that the usual money drop routine would be to take a taxi to deliver the money and pick up meds. Most of the time the money drop and med pick-ups would be to and from Turtles' house. If not there, then the drop offs and pick-ups would be though a meet with Steve or Brandy at the Bull Bar.

Brandy mostly handled money transactions at the Bull Bar. The Office was used, but infrequently.

Managers arrive at dispensaries at 8:45 AM to open and never use the front entrance, always the back entry.

Personnel are not permitted to keep their purses or wallets in the front showroom where money is paid, so as to prevent employee theft.

Generally, all employees, managers and owners use disposable cell phones (burn phones) for communication.

Subject stated that she has pictures on her cell phone of all of the dispensary personnel described. She has yet to forward them, as requested

The Raids:

During the course of her employment Subject witnessed four raids at TCC and one raid at OGD by LBPD narcotic officers. The chronology and disposition of Subject and her co-workers by the LBPD narcotic officers during those raids is as follows:

| Date | Dispensary | Disposition |
|-------------------|------------|-------------|
| September 2013 | TCC | Citation |
| October 29, 2013 | OGD | Citation |
| November 22, 2013 | TCC | Citation |
| December 16, 2013 | TCC | Arrest |
| January 3, 2014 | TCC | Arrest |

Subject stated that after entry on each raid that Officer DE Stefano (the officer who signed her citation) would make a call and ask the party on the other end for a search warrant to be obtained for the location.

Subject never saw an actual search warrant nor did she see any receipt for property taken given to anyone, including \$1,500 taken from her purse by one of the Narcotic Officers (who is bald and has a limp). (Subject learned from this officer that he had surgery on his hip, which was the reason for the limp.)

Subject stated that she knows the head narc is detective Strohmman, but that he never entered any of the locations during the raids. She knows him to drive a white pickup truck. She observed that detective DE Stefano appeared to be in the officer in charge during each of the raids.

At the November 22 raid, the officers entered the location, sans identification, held a gun on the receptionist to keep her quite, battered the security door, threw in a flash bang and confronted the armed security guard, demanding that he put down his weapon. The

security guard refused, thinking they were bandits. A uniformed officer subsequently entered the location and assured him that they were in fact police.

Subject was in the back room when the officers entered. DE Stefano demanded to know where the money was hidden. The bald officer who had the hip surgery was with him. She did not know where any money was located.

The bald officer with the limp subsequently retrieved her personal purse. DE Stefano took \$1,500 from it. She protested that the money was for her rent. DE Stefano threatened her with jail and took the money. DE Stefano subsequently signed the citation that was written by the bald officer with the limp that was issued to her.

At the December 16 raid, the bald officer who had the hip surgery questioned DE Stefano in Subject's presence, asking why the dispensary employees were going to jail rather than being issued a citation as in the past. DE Stefano's reply after getting off the phone with his boss, Detective Strohman, was "because the boss, Strohman, says that because of the city council's vote, everybody goes to jail."

(Note: See the Long Beach City Council December meeting video in which the council voted to re-instate the medical marijuana ordinance over the objections of the chief of police who advised that the DEA would no longer assist the city in enforcement and advised the council that four or five dispensaries are impossible to close because they are so rich that they just pay their fines).

The Bribes:

During Subject's employment there were three occasions in which a LBPD narcotic officer - the same officer - entered the TCC location, was buzzed in and allowed to go into the backroom.

Subject said on those occasions Tim, who was in the backroom at the time, gave a paper bag of money to Chris Durdines (a bud tender) and then remained hidden from the officer's view behind a curtain, while Chris delivered the moneybag to the officer. Subject stated that the officer is one of the drivers (see the list of 8 Payoffs below) she observed during PAYOFF #3, described as: Male, Asian or Hispanic ("chinky eyes") 5'7", heavy set, buzz cut.

Subsequent to the November 22 raid, Subject was promoted to become Brandy's assistant and from that time until her termination Subject witnessed the delivery of money and product payoffs to LBPD narcotic officers on 8 separate occasions.

On each occasion Subject accompanied Brandy to the pay off location.

The method of delivery involved meeting LBPD narcotic officers at a pre-arranged location generally between 10:30 PM and midnight.

The officers would park in the location parking lot, the driver officer, who was always a different individual at each of the eight payoffs, would exit the vehicle and meet Brandy on foot in the lot between the two vehicles where she would hand off the money and occasionally product. There was never any conversation between Brandy and the officer.

Subject stated that not only can she identify the driver officers, but that she also recognized each of them from their presence at the different raids outlined above.

On each of the 8 payoff occasions the passenger officer was the same person, described by Subject as Male, early thirties, Latin, dark complexion, very tall, 140 lbs, noticeably skinny that makes him look even taller, hair length to ears. Subject recognized this officer as having been present during the raids. She also stated that she saw him in court on the morning prior to the first interview. (April 22, 2014)

On each of the 8 occasions Subject remained in Brandy's vehicle and observed.

The vehicle used by the narcotic officers for each transaction was either a black Crown Victoria with a spotlight on the drivers' side or the Narcotic unit green raid van.

Circumstances surrounding the eight payoff's witnessed by Subject are as follows:

PAYOFF # 1. Subject's first exposure to payoffs occurred following the November raid. Brandy told her to accompany her and that she would show her, "why we don't go to jail."

They drove to the **CVS Pharmacy** parking lot in downtown Long Beach in Brandy's Grey/Silver truck. The police were waiting at this location in the Crown Victoria.

The driver was Male, cauc, 5'8", goatee, bald and bulky wearing shorts, and a tee shirt.

Brandy handed him a brown paper bag with a blue sticker. When Brandy returned to the truck she stated, "and that's how we stay out of jail, girl."

PAYOFF #2. 1st week of December 2013 on a **Friday**. Turtle accompanied Brandy and Subject in Brandy's Jeep to the meet location at **Walgreens** near Anaheim and Cherry in Long Beach. On this occasion the money was in a zip lock box. Brandy delivered the money to the driver officer while Turtle and Subject remained in the Jeep.

The driver is described as Male, Hispanic, 30's, short, hair wearing a bullet proof vest and jeans with a gun strapped to his leg.

PAYOFF #3. 3rd week of December on a **Friday** night.

The money for the payoff was placed in a brown bag with a blue sticker at TCC.

Subject accompanied Brandy from TCC to **Alex's Bar** parking lot on Glady's and Anaheim where the Crown Victoria was waiting.

Brandy delivered the brown paper bag with the blue sticker to the driver, described as Male, Asian or Hispanic ("chinky eyes") 5'7", heavy set, buzz cut, wearing a black, long sleeve shirt and black pants. (The same officer who acquired money at TCC)

PAYOFF #4. Last week in December on a **Friday** night.

On this occasion TCC was short on money. Subject and Brandy met Jesse at the Bull Bar and then the three of them went to the "Office" to get funds for the payoff. Upon entering the "Office" Apartment, Brandy instructed Subject to retrieve \$1,000 from the refrigerator freezer. Jesse went into the bathroom and returned with a bundle of money. They put the cash in a zip lock bag.

They then drove to the **Liquid Lounge**, 3522 E. Anaheim Blvd, Long Beach, in Brandy's Jeep and made the meet. The officer's on this night were driving xxxx (notes failure). Brandy met the driver officer and handed him the money. The driver officer is described as Male, cauc, blue eyes (pretty blue eyes), 6'1", buzz cut, wearing jeans and a tee shirt. (Note: Subject stated the driver officer was present when she was being processed as result of the December arrest and other officers ribbed him about having "pretty blue eyes.")

PAYOFF #5. One week later on a **Friday** night

Subject and Brandy drove to the "Office" in Brandy's VW. Brandy instructed Subject to retrieve \$3,000 from the toilet tank in the bathroom. Three bundles of \$1,000 each and one bundle of \$10,000 were placed into a zip lock bag. They then proceeded to the **Liquid Lounge** parking lot, waited for 30 minutes and then Brandy made a call on her burn phone. When the other end was answered she said, "Hey, this is Gabby. She clearly received instruction for another location.

They then drove to the **CVS Pharmacy** downtown and waited 10 to 20 minutes. The officers arrived in the Crown Victoria. Brandy met the driver officer and handed him the money. He is described as Male, Cauc, buzz cut, little mustache, wearing a black tee shirt, bulletproof vest, and badge hanging from a chain around his neck.

PAYOFF #6. (Notes unclear on date)

Jesse picked Subject up and drove to the "Office" where they waited for Brandy to call. She told them to meet at Turtles house on Redondo.

They met Turtle, medicated and waited for 3 hours for Tim, who arrived and brought paper bags of money with blue stickers.

Subject counted out \$4,800 and Jesse counted \$10,000 from yellow sticker bags. Subject put the money in a brown paper bag. She was told to meet Brandy at Alex's Bar parking lot. She and Jesse drove to Alex's Bar in his Honda.

When they arrived Brandy stated they needed a backpack. They then drove to TCC where Subject retrieved her purple Jansport backpack bearing the Subjects initials, "SAC." Product was obtained at TCC and placed into the backpack along with the money.

Brandy and Subject then went to the **Liquid Lounge** parking lot where the narcotic officers were waiting in the green raid van.

Brandy delivered the backpack to the driver, described as Male, Hispanic 30's 5'8", with slicked back hair wearing a bulletproof vest, and a white tee shirt.

PAYOFF #7. Friday Night following the January 2, raid.

Jesse and Subject at OGD. Jesse counted out \$3,000 and Subject counted \$11,000 from bags with yellow stickers. They then took the money and drove to TCC to meet Brandy where Brandy put the money into a large backpack along with what Subject estimates to be about 8 pounds of marijuana.

Subject and Brandy then drove to **Walgreens** parking lot at Anaheim and Cherry where the LBPB narcotic officers waited in the green raid van.

Brandy handed the backpack to the driver described as: Male, Cauc, 40's, short, stubble beard, buzz cut (not too short) grey hair.

PAYOFF #8. The following Friday

Subject and Jesse traveled via taxi from OGD to TCC where they met Brandy and acquired money from the fake food cans. Subject removed \$4,000 from a coffee can and gave it to Brandy who packaged it in a brown paper bag and stapled it with blue sticker.

They then entered the secret room, obtained marijuana and placed both the money and marijuana in a CRUSTY CRAB backpack. (Note: Subject said this was Steve's backpack in which he had some of his paperwork. He was angry later that they used it).

Subject then drove with Brandy in her VW to the **CVS Pharmacy** downtown. The LBPB narcotic officer's were present, waiting in the green raid van.

Brandy handed the driver officer the Crusty Crab backpack. The driver on this occasion was Male, Hispanic, tall, with long hair to his ears.

NOTES:

On May 6, Mr. Sandoval had the serendipitous opportunity to dine with the owner of Alex's Bar, which is located next to the parking lot of one of the payoff locations. He took the opportunity to ask if Alex ran a surveillance camera on the parking lot. He did. The camera records a month at a time and is then erased. Mr. Sandoval has received permission to copy the most recent recordings and will also ask to acquire future recordings prior to erasure.

On a personal note, I have observed that the Natural Care Dispensary, which is a few blocks from my home and the subject of a raid last year by the DEA and Orange County Sheriff's - which brought about the closing of the criminal organization run by Melvin

"Pops" Walker - was, to my knowledge, never raided by the LBPB. I also note that the LBPB did not partake in the DEA/Orange Country raid as is customary. These circumstances brought to mind my experience with LBPB during my tenure with the Los Angeles Police Department. Because of our experience with our cases getting burned, we chose to never notify LBPB until we got to the door on bookmaking raids made in their city.

It is very possible that corruption by members of the LBPB drug unit extends to relationships with other criminal organizations. An investigation into LBPB raid/search warrant practices should provide additional leads into the possibility of individual and institutional corruption through audits of past and current failures by the LBPB drug unit to obtain search warrants, provide returns to the issuing court when warrants are obtained, failures to book money and drugs into evidence and failures to provide receipts for money and goods seized.

REPORTED BY:

Stephen Downing

152 La Verne Avenue

Long Beach, CA 90803

Phone: 562 433 4043

eMail: steve@sonarnetworks.com

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DECLARATION OF LARRY PARKS

1. I Larry Parks, declare as follows:

2. I am over the age of 18. I suffer from acute pain. My physician recommended medical marijuana as treatment for my condition. I am a managing member of the 1 A.M. Collective in Long Beach and a qualified patient of that collective.

3. Several weeks ago, I was contacted by attorney Paul Violas. Mr. Violas told me he was aware that I was a manager of a medical marijuana patient cooperative group in Long Beach, California. He also told me that he knew my patient cooperative group was working with attorney Matthew Pappas in regard to patient rights and a Long Beach city ordinance passed earlier in 2010.

4. During the call, Mr. Violas told me that my patient cooperative group was wasting its time and money working with Mr. Pappas. He told me that he had the ability to get "any Long Beach medical marijuana permit application approved" because he "knew people at city hall." He explained that Mr. Pappas did not have those contacts at city hall because Mr. Pappas had filed a lawsuit against the city and does not work the same way the he (Mr. Violas) works.

5. Mr. Violas told me that he had previously had several very confrontational discussions with Mr. Pappas' father, John Pappas, who I know personally and who I know works with his son, Matt Pappas.

6. Mr. Violas told me that, if I paid him money, he would be able to "guarantee" acceptance of my patient cooperative group's application for a Long Beach city permit. When I asked him how he could do this, he told me he knew "how things were done at city hall." Mr. Violas called me repeatedly after he had first contacted me. During a couple of the calls, he would provide me with "inside" information about what was going on in Long Beach city hall. He appeared to know about things that would be happening in city council meetings before those things would actually become public. I felt this was positive because it appeared to me Mr. Violas might be able to help us with the permit process because he had this

1 information. After several days of calls to me during which he hounded me to get "on board"
2 with him, I went ahead and paid Mr. Violas \$2,000. as a public relations fee.

3 7. I had not been able to discuss my conversations in detail with Mr. Pappas before
4 I paid Mr. Violas the public relations commission of \$2,000. Mr. Pappas was out of the office
5 for several days and could not be reached. After paying that money under pressure from Mr.
6 Violas, I had a chance to discuss the matter with Mr. Pappas.

7 8. Mr. Pappas told me that his father's prior confrontations with Mr. Violas related
8 to Mr. Violas making similar claims about being able to guarantee approval of permits. Mr.
9 Pappas told me he had sent a letter to Mr. Violas in August telling Mr. Violas he was
10 concerned about an attorney that could make such guarantees and base those guarantees on the
11 ability to exert influence over public officials through payment of money. Mr. Pappas then
12 told me that he believed it was not a good idea to involve my patient collective with Mr.
13 Violas because, should Mr. Violas be obtaining preferential treatment with city officials in
14 exchange for money, such actions would likely be deemed illegal.

15 9. While talking to Mr. Pappas, I became very concerned because after I had paid
16 Mr. Violas the \$2,000., Violas then contacted me and told me that, in order to guarantee
17 approval, I would need to pay him an additional \$5,000. up front and then agree to pay \$1,000.
18 for eighteen (18) months as a retainer. During that later call from Mr. Violas, he told me that
19 he would need that money and might need money to be committed to city projects or
20 programs on behalf of the patient collective in order to make sure city officials would approve
21 my patient group's permit. I told Mr. Pappas about what Mr. Violas had said. Mr. Pappas
22 then became very concerned that Mr. Violas could potentially involve me in illegal activities.

23 10. I asked Mr. Pappas to please meet with Mr. Violas before I had anything further
24 to do with him.

25 11. I have not authorized Mr. Violas to conduct any illegal activities on my behalf or
26 on behalf of the patient cooperative group that I manage. I did not know that Mr. Violas' was
27 planning on having my group contribute money to any politician or official or city project in
28 order to obtain favorable treatment in regard to city permit applications until after I had paid

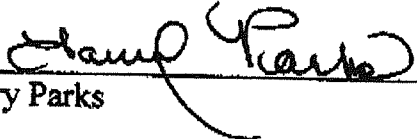
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the \$2,000.00. It was after I had paid that money to Mr. Violas that he then told me my group might have to make monetary contributions to city projects or to city officials.

12. Mr. Violas said that he would look at our non-profit by-laws and paperwork and would make sure we would "get the 'bulls-eye' off our back, because of what the city thought about I a.m. (my collective)". He said "all of his clients, the city does not bother them."

I declare under penalty of perjury under the laws of the State of California that the aforementioned statement represents my personal knowledge and is true and correct.

Executed this 18 day of October 2010:



Larry Parks



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ROBERT E. SHANNON
City Attorney

September 3, 2012

HEATHRA A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

Dominic Holzman
Anne C. Laffine
Monica H. Mochizuki
J. Charles Parkin

C. Geoffrey Albert
Gary J. Anderson
Richard F. Anthony
Amy R. Burton
Kendra L. Carney
Cristina L. Chetani
Charles M. Gale
Barbara J. McTyghe
Barry M. Meyers
Cristy Meyers
Howard D. Russell
Tiffani L. Shin
Linda Truong
Theodore B. Zinger

Dallas Alexander
301 Atlantic Avenue, Unit D
Long Beach, CA 90806

RE: THC Downtown Collective

Dear Mr. Alexander:

Your statement that I was present during a police investigation of THC Downtown Collective is slanderous. I have never been inside THC Downtown Collective. You and your cohorts are hoodlums from the street who have moved "drug dealing" to a new low. I have observed the "patients" that are purportedly in wheelchairs or sick. They should win an Academy Award.

You are in violation of Long Beach Municipal Code, Section 5.89. If the THC Downtown Collective is not closed by September 28, 2012, the police department will be instructed to conduct another investigation of the property. You and your criminal "patients" will be arrested. You and your family should also be vigilant and stay out of Long Beach.

Best regards,

ROBERT E. SHANNON, City Attorney

By: 
KENDRA L. CARNEY
Deputy City Attorney

klic

1 6. Based on the City's harassment of my client, I filed, on my
2 client's behalf, an unlawful detainer action against the collective group of
3 patients in July, 2012. Thereafter, judgment was entered against the
4 collective. However, the collective moved the Los Angeles Superior Court for
5 an order staying the eviction based on hardship to the patients. The Court
6 granted the collective group of patients' request for the stay.

7 7. A true and correct copy of the order of the Superior Court staying
8 enforcement based on patient hardship is attached with this declaration as
9 Exhibit 2.

10 8. I am presently awaiting the Long Beach City Attorney to deliver to
11 me a written agreement which I hope will end one aspect of the controversy
12 between the City and my client, that of the question of revocation of my
13 client's right to lease his property to a neighboring but completely
14 unrelated business located in the same building but of a separate address. I
15 expect that agreement to be forthcoming soon.

16 9. Whether the finding that LBMC, ch. 5.89 is preempted by state law
17 by one Superior Court in the County of Los Angeles is binding on other courts
18 of that county is a matter for the courts to decide. This declaration is
19 offered in an attempt to inform the Court of the tactics employed by the City
20 of Long Beach in cases other than the instant so that the full breadth of the
21 matter may be comprehended.

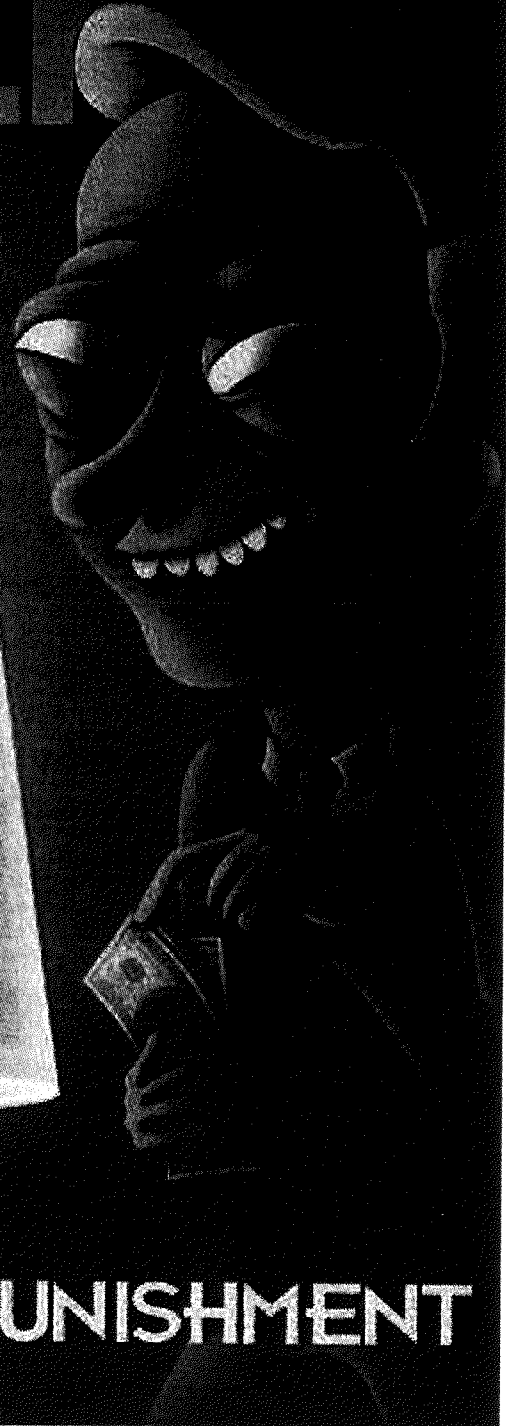
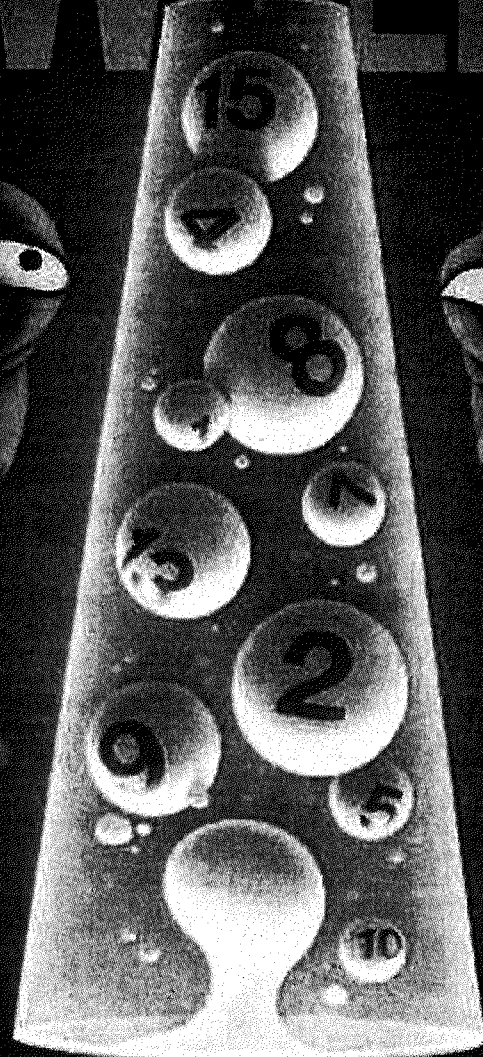
22 I declare under penalty of perjury under laws of the State of
23 California that the aforementioned declaration is true and correct.

24 EXECUTED this 13th day of September, 2012 at Palm Springs, California:

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28 
RICHARD BRAKEFIELD

WHAT YOU DIDN'T KNOW ABOUT THE KELLY THOMAS MURDER • DRON WELLES RISES AGAIN • THE BEST MEXICAN PIZZA IN TOWN

DRON WELLES



How Long Beach's
botched marijuana
lottery screwed
its winners
and losers alike

COLLECTIVE BY NICK SCHOU PUNISHMENT

Long Beach Offers Collective Punishment

How the city's botched marijuana lottery screwed its winners and losers alike

By **NICK SCHOU**

Thursday, Feb 2 2012

Except for the oversized green cross painted on the wall and the acrylic sign with the olive-colored marijuana seed inside the letter O, Avalon Wellness Collective looks exactly like all the other razor-wire-topped, one-story buildings that line the west side of the 710 freeway. Six months ago, the 8,000-square-foot, charcoal-gray building, located in an industrial neighborhood of north-central Long Beach, was just an empty warehouse; now, a state-of-the-art, one-stop cannabis cultivation-and-distribution center operates inside, built to exacting city specifications.

The front door didn't open until last summer, when it was carved into the front of the building. A burly guard sits on a stool. Behind him, another security door leads to what turns out to be a "man-trap": once the first door closes, visitors are locked inside a chamber until they're buzzed through. Beyond that, in the actual dispensary area, jars of organic medicine previously tested for pesticides, mold and E. coli are neatly arranged inside a glass-topped display case. A flat-screen television stretches across one wall, and watching everything from a ceiling corner is a tilt-pan, zoom-lens security camera.

Nearly half the sprawling structure is divided between a vegetation area, a hydroponics set-up, and a large worktable at which several seated employees trim bags of recently harvested product. It's like a scene out of Detroit at the height of its automotive might, except rolling off the assembly line here is marijuana. In one corner, there's an Americans With Disabilities Act-compliant bathroom, as well as a fire exit that leads to an alley. A locked side door embedded in an 8-inch-thick wall leads to Avalon's marijuana-cultivation area. In the hallway a few feet to the right of this door is the grow room, where 90 plants flower beneath sodium heat lamps. If the carbon monoxide levels in this room exceed 2,000 parts per million, horns blare and blue strobe lights turn on as intake and exhaust fans cycle fresh air into the room. From the ceiling of a separate curing room hang a few dozen plants cloned from strains with names such as Avalon White Chunk, Diesel Alien and Tar Dog.

Everything within the walls of this building materialized in less than 90 days last summer, thanks to Trojan Builders' Chris Cantella, whose regular work is a bit more rarified; a Newport Beach mansion he constructed won a seven-page spread in the August 2010 edition of *Better Homes and Gardens*. But the developer is proud of this dispensary, not least because he completed it just in time to qualify for a crucial certificate of occupancy from the city of Long Beach that makes it currently legal. Cantella estimates he has sunk at least \$400,000 into the construction project, money he can ill-afford to gamble: When the real-estate market bubble collapsed in 2008, his earnings dropped from \$3 million per year to nothing.

"We had every city inspector here," he says. "It was a long, tedious process, but we stuck in there and jumped through every hoop. I'm only here because the city of Long Beach opened the front door and said, 'Come on down.'"

But the city's commitment to medical marijuana wasn't as solid as Cantella had assumed. In the fall of 2011, just as Avalon Wellness Collective opened its doors, Long Beach began considering a ban on medical marijuana despite having legalized collectives a year earlier. City attorney Robert Shannon led the charge, citing an ongoing federal crackdown on storefront dispensaries in California that has seen the Obama administration launch unexpected raids and property seizures against growers and landlords. Shannon also cited a lawsuit filed by Ryan Pack and Anthony Gayle, two patients who had obtained cannabis from two clubs that failed to win in a controversial Nov. 20, 2010, lottery run by city bureaucrats, which picked several dozen locations (including Avalon Wellness Center) for permits to open dispensaries; those that didn't win were raided and shut down. According to the plaintiffs, the city has no right to regulate a substance that is illegal under federal law.

So far, the council has voted twice to delay its vote, but if it bans storefront dispensaries, it will hardly be the most bizarre turn of events in Long Beach's surreal war on weed, one in which the council members who favor medical marijuana voted against legalizing it, and those opposed to legalization voted yes, and where the city rakes in millions in pot-related fees and fines, simultaneously permitting and prosecuting various cannabis clubs. Perhaps the least surprising

detail is that the FBI is reportedly investigating allegations of official corruption in Long Beach.

If anyone personifies the transition from good to bad vibes that has befallen Long Beach's ill-fated foray into the medical-marijuana business, it's John Morris. The silver-haired ex-rugby player in his early 60s has a vaguely English accent; his tendency to end sentences with words such as "babe" and "love" betrays his Liverpudlian roots. After emigrating, Morris settled in Long Beach in 1972; seven years later, he opened the famed Legends Sports Bar on Second Street in Belmont Shore. In 1988, he pioneered the revival of Pine Street by opening Mum's, an upscale steakhouse and jazz bar, and later Smooth's Sports Grille, which closed in 2010, owing the city \$147,000 in unpaid loans.

For several years, Morris served as the president of Downtown Long Beach Associates, often clashing with the city over redevelopment, but also charming much of city hall—as well as the newsroom of the *Long Beach Press Telegram* and other local publications. If he was one of the most powerful businessmen in Long Beach, he was also one of the most outspoken, especially against the city's centerpiece redevelopment project of the 1990s, the Pike at Rainbow Harbor.

In 2008, amidst the overall economic downturn that began that year, Morris became eager to explore medical marijuana. He'd recently lost a friend to prostate cancer, and he'd seen how well cannabis had treated the pain. In a recent interview at McKenna's On the Bay, where Morris now works as a manager, he recalled being struck by the thought that he was the perfect guy to implement the city's plan to allow dispensaries to operate in the city as a way to welcome much-needed tax revenue.

His pitch to City Hall: work with someone you know, rather than open the door to strangers from out of town who might turn out to be shady characters. "How are we going to make this truly work in Long Beach so it's not gangbangers doing it?" Morris figured. "Let's bring the community into this thing so everyone knows who we are."

Since marijuana collectives aren't allowed to make a profit in California, Morris says, he planned to open at least four different storefronts throughout the city, each affiliated with a nearby charity, including Long Beach Memorial Foundation; the city's skate-park program, run by ex-councilman Mike Donelon; and Long Beach Gay and Lesbian Center, whose director, Ron Sylvester, recalls talking to Morris and being excited about the concept.

"I brought it to our board of directors and got back to John and told him that we'd love to be a beneficiary," Sylvester says. "I kept an eye on what was happening legislatively, and, of course, we're disappointed that it hasn't come to fruition."

When he met with city attorney Shannon about the project, Morris brought his lobbyist, Matt Knabe, whose father, Don Knabe, sits on the Los Angeles County Board of Supervisors. Shannon informed Morris that state law prohibited him from opening multiple stores. "The whole concept was odd to me because state law is very clear that you can't make a profit," Shannon says.

Morris decided that Shannon had no right to tell him what to do. "As we left that meeting, I said, 'Fuck this,'" Morris recalls. "I've got plenty of friends in town who are believers in this stuff, so I went out and talked to 10 or 12 of my buddies."

He formed an investment group called SJK—an acronym using his own first initial, plus those belonging to two of his friends and fellow investors, Stu Ledsam and Kurt Schneider. Then Morris set about finding properties throughout the city where SJK could grow and distribute medical marijuana via six supposedly separate collectives.

Because the city required at least three individuals to be on the permit application paperwork for each collective, Morris gathered 18 people and convinced them to lend their names to the various collectives. He hired a lawyer, Paul Violas, to draw up the articles of corporation and assemble the complex application materials: dozens of pages of personal disclosure forms, rules, regulations and checklists, each requiring the initials of the collective's trio of managing members.

To create a nonprofit called the Fourth Street Collective at 1069 Wardlow St., Morris reached out to Christine Donelon, wife of the former city councilman who ran the skate-park charity Morris hoped to fund. Another was tax accountant Osvaldo Lainez, who handled returns for both Morris and Dee Andrews, a Long Beach councilman. Lainez is also the president of the nonprofit Chicar, which has won tens of thousands of dollars in Port of Long Beach donations, ostensibly for helping to organize the city's annual Martin Luther King Jr. Day parade, which is steered by Andrews.

The six collectives Morris wanted to open hardly represented a monopoly of the clubs that filed applications for permits in early 2010, however. As the city attorney's office realized how many storefronts hoped to open, panic spread. Deputy City Attorney Michael Mais hit upon a plan: hold a lottery to randomly select locations that could then continue the permitting process. According to Mais, the city had successfully used a lottery to allocate flight spots at the tiny Long Beach Airport.

"We wanted to limit the number of dispensaries," Mais recalls. "We had two choices. We could have a lottery, which I thought was very fair, or we could go with whoever turned their application in first, which I don't think anyone could say was fair."

As the early summer 2010 filing deadline loomed for collectives that wished to get into the lottery, Morris and Violas summoned the SJK group together for a meeting at Smooth's. Unfortunately, not everyone could make the meeting or otherwise be found in time. So with their permission, Morris signed their names himself.

So did his employee, Josh Howard, a onetime marijuana-collective owner who worked for Morris. On the day the applications were due, Morris called Howard. "I need you to start signing signatures," Morris told him. "Half of these people are out of town or I can't get ahold of them—one guy's out of the country."

Morris and Howard drove to City Hall, scribbling whatever signatures and initials they could find. They parked outside, and Morris went upstairs with a stack of papers while Howard continued to sign names. The *Weekly* obtained all the applications from the city via a California Public Records Act request, and Howard

pointed out which signatures he'd forged. The illegible wavy lines were easy for him to identify; he pointed out several items that he and Morris forgot to initial.

Although Morris readily admits he was involved in no less than six different collectives, because his name wasn't listed as a managing member of any of them, it didn't violate the city's ordinance, according to Mais. "To a certain extent, we rely on the honesty of the people we are dealing with," he explains. "As long as their name isn't listed as a management member, we have no way of knowing. You have to assume they are following the rules.

On Sept. 20, 2010, the city of Long Beach held a lottery to determine which of the several dozen marijuana collectives that had paid the roughly \$15,000 upfront application fee would be eligible to receive a permit allowing them to operate in the city. It was a fiasco. The city had spent several thousand dollars on a machine designed to randomly choose Ping-Pong balls stenciled with a combination of numbers and letters, each pertaining to a different collective, but the balls were too big, so officials had to toss them into a recycling bin and hand-select them.

Not surprisingly, the carnival-type atmosphere led to immediate claims that the lottery was rigged, recalls Mais, who takes responsibility for the process. "The people who won the lottery thought it was fair, and the people who lost it thought it was unfair," he says. "Other than the fact that the lottery machine failed to work, the lottery was as straight up as any lottery that was ever done. We bent over backward to take any sort of unfairness out of it. We spent a ton of money. It was unfortunate it turned out the way it did because it was embarrassing."

Morris, who didn't attend the event, recalls receiving text messages each time one of his collectives won the lottery; five of the six locations he'd lined up were selected. "Everybody fucking thinks we fixed that thing," he jokes. "If Shannon had his way, he'd have made sure those balls of ours would never come to the top. . . . The vast majority of management people at City Hall, they don't like me, and I don't like them."

As soon as the city held the lottery, however, it revised its marijuana ordinance. The law already required cannabis clubs to be farther than 1,500 feet from a high school

and 1,000 feet from any kindergarten, elementary, middle or junior-high school or other dispensary. To these, the city added that no club could be within 1,000 feet of a park or beach. Because Long Beach is on the ocean and full of parks, the list of eligible storefronts shrank considerably.

Thanks to the new buffer zones, numerous clubs that had won the lottery were now ineligible for a city permit after all, including one operated by Morris. Meanwhile, the city kept adding new construction prerequisites—fire alarms, security systems and carbon monoxide monitoring systems—to further whittle the field. Thanks to what amounted to a bait-and-switch maneuver, the city had to set up a refund-application process to collectives that had won the lottery but were subsequently zoned out of contention.

Ultimately, of the five locations tied to Morris that won the lottery, just two ever opened their doors; of those, only one continues to operate. Morris and his investors had to back out of the business because they ran out of money. "We never made a fucking dollar," he says. "My SJK guys, of the \$500,000 they outlaid, I don't think they'll get any of that back."

Morris eventually fired Howard and a woman named Nichole West, who says she drew up a business plan for SJK and never received a dime in return. Both Howard [3] and West, who has left Long Beach [4], claim Morris owes them thousands of dollars. After Howard complained to one of SJK's investors, a famous soccer player who seemed sympathetic, one of the group's lawyers sent him a letter, which the *Weekly* obtained, threatening to sue him and referring to his unspecified allegations as "untrue" and "grossly slanderous."

But if Morris and other collective operators who managed to win the lottery were upset at the city, so were those whose Ping-Pong balls weren't chosen, or who refused to pay, or could not afford the \$15,000 fee to play the game. Larry Parks, who owned the 1 A.M. collective, [2] first became suspicious about the city's program weeks earlier, when he paid a \$2,000 consulting fee to Morris' attorney, Violas.

"I wanted to get his thoughts about the lottery process and what he thought my chances were," Parks recalls. "He wanted me to hire him for \$2,000 a month and told me his clients don't get bothered by the city. He called it 'good lawyering' and said he'd need \$5,000 here and \$5,000 there to spread around."

Violas claimed to be "good friends" with Erik Sund, Long Beach's business-relations manager and director of the city's medical-marijuana program. "Mr. Violas told me that if I paid him money, he would be able to guarantee acceptance of my patient-cooperative group's application for a Long Beach city permit," Parks later stated in a sworn deposition. "When I asked him how he could do this, he told me . . . my group might have to make monetary contributions to city projects or to city officials."

Parks declined to take Violas on as a lawyer. Sund did not respond to an interview request. In an interview at his office in downtown Long Beach, Violas stated that while he maintains "cordial" relationships with Sund and other city officials, he has never made any such guarantees: "I categorically deny that I've ever promised any client that payment of money to a city official will result in favorable treatment."

Mike Genera [1] refused to pay the fee to enter the lottery; soon after, the city began sending code-enforcement officers to his collective, threatening his landlord, and issuing him up to \$50,000 in fines over a period of several months. The police also showed up and filed misdemeanor charges—violating the city's marijuana ordinance—against his security guard and manager. "They used every kind of tactic that you can imagine," Genera says. "It was just so overwhelming."

Dallas Alexander, who operates the Dank City Collective, also paid only a token fee of \$500 to the city, instead of the \$15,000. "I was summarily rejected," he says. Not long thereafter, the police raided his shop while he was on his way to work. "They broke down my door with no warrant," he says. "They basically robbed me. They took whatever they could in money. I saw Erik Sund walk out with a bag of my merchandise. They arrested three of my people who were working, but they were out in a couple of hours."

Until she voluntarily closed the dispensary late last year, Katherine Aldrich operated 562 Collective in the north Long Beach neighborhood of Bixby Knolls. She also

refused to pay the city's permit fee and didn't participate in the lottery. On Feb. 14, 2011, the police raided her collective while she was taking her daughter to the orthodontist. Security footage filmed during the raid shows plainclothes officers accompanied by Sund standing in her lobby.

No arrests were made, but Aldrich received a fine. The cops returned again three months later, again without a warrant. When her employees refused to open the safe, police arrested them but left empty-handed. Sund was present for that raid, too.

"He's a business-license approver," Aldrich complains. "Why he's out there participating in these raids, I have no idea."

City attorney Shannon insisted that the \$15,000 in fees demanded by Long Beach is justifiable, given the city's dire economic situation and the cost of regulating the dispensaries that his office envisioned. "We wanted to limit the number of dispensaries, and we wanted to recover our costs," he says. However, Shannon acknowledges, the fee "inadvertently" made it more likely that the "more profit-oriented collectives" would win the lottery. "That was never intended, of course, but that's a fair statement," he says. "It was an unintended consequence."

Matt Pappas, the lawyer who represents Pack and Gayle in their lawsuit against the city, now represents Aldrich, Parks and other collective operators whom the city fined, raided or both for violating its medical-marijuana ordinance.

"I don't know what's happening at the city, but there's something wrong," Pappas says. "When people say they can engineer things and you won't get raided since you're paying money that gets spread about, it's awfully suspect. Think about it: The city is taking money from some collectives and not issuing them citations and going out and raiding the ones that aren't paying the money."

Whatever its basis in reality, the whiff of corruption hasn't gone unnoticed by the federal government. Sources involved in Long Beach's medical-marijuana community told the *Weekly* that FBI agents have interviewed them, although for the

most part they refused to provide specifics. "I can't tell you anything about that," said one source.

"They did visit me," said another. "Their questions were about public corruption and not the legality of medical marijuana. The statement I gave was that I wasn't aware of any malfeasance and hadn't engaged in any."

One obvious argument against the concept of deliberate corruption is that collectives that did win the lottery and that haven't been subjected to heavy fines by the city still have no guarantee they won't be shut down. This elite group of collectives, which includes Avalon Wellness Collective, numbers roughly a dozen and has formed a group called Long Beach Collective Association (LBCA). The group's lawyers include both Violas and Rick Brizendine, whose name turned up in a search-warrant affidavit filed by the Orange County Sheriff's Department when it raided Belmont Shore Natural Care collective on Nov. 8, 2011. According to sheriff's officials, the department raided the collective after finding ties between Belmont Shore Natural Care and several Orange County collectives run by a silent investor who, they assert, was using Brizendine to launder his money. Brizendine returned an initial telephone call seeking his comment for this story, but he has subsequently failed to answer his phone. In an interview with the *Long Beach Post*, he denied any wrongdoing.

Carl Kemp, a registered lobbyist at City Hall, also represents LBCA. He says his clients are frustrated with the fact the city keeps changing its rules. "We have done a lot of work to make the ordinance work well for everyone," Kemp says. "Mr. Shannon has a predisposition against the idea of medical marijuana, and I respect that. But unfortunately, I don't think any moral attitude should force people who have a legitimate need to go back into the dark alley to get their medicine."

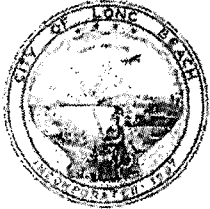
Members of LBCA recently held a meeting with the collectives that are suing the city, trying to find a way they can join together in pursuit of a common goal. Valerie Crist, the director of Avalon Wellness Center, is one person who's in favor of such an alliance. A recently divorced Realtor who left the business during the housing bubble and has since invested her life savings in the collective, she says she would

have lost everything if it weren't for Cantella, who performed the \$500,000 city-required construction at half the cost.

"There are more bad people than good people in this business, and that has got to change," Crist says. "The good people are being run off by the crackdown. My employees don't want to go to jail—ever. We want to follow the rules. There are people who refuse to play this game with the city, and I respect them for it—people who didn't pay the fee and have been raided, hardworking people with the right intentions. Unfortunately, the city has done a good job of dividing us."

This article appeared in print as "Collective Punishment: How Long Beach's botched marijuana lottery screwed its winners and losers alike."

<http://www.ocweekly.com/2012-02-02/news/long-beach-medical-marijuana-lottery/>



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS RELATIONS BUREAU

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6211

April 11, 2012

Matthew S. Pappas
dba: Matthew S. Pappas, Attorney
22641 Lake Forest Drive #107
Lake Forest, CA 92630

RE: Denial of Business License Application BU21209680

Business Address: 4340 Atlantic Avenue, Long Beach, CA 90807

Dear Mr. Pappas:

Your business license application appeal is denied. Your letter requesting an appeal was both untimely and improperly submitted. Per the City's March 22, 2012 denial letter, in accordance with Long Beach Municipal Code section 3.80.421.6, you were required to request an appeal with the Director of Financial Management no later than ten days from the date of the letter. The request was required to state the grounds for appeal and include a nonrefundable filing fee of \$1,205.00.

Unfortunately, your request to appeal, though dated March 31, 2012, was actually received by electronic mail by another City department on April 5, 2012, at which point it was forwarded to our attention. Additionally, you have not submitted the required filing fee. Therefore, your request to appeal the denial of your business license application to operate a law office at 4340 Atlantic Avenue, Long Beach, CA 90807 is denied because you failed to comply with Long Beach Municipal Code section 3.80.421.6.

Please direct any questions on this matter to the City Attorneys Office at (562) 570-2200.

Sincerely,

Erik Sund
Manager, Business Relations Bureau

ES/smc

cc: Kendra Carney, Deputy City Attorney
Council District 8
Director Financial Management

**From: Long Beach "Beachcomber"
Jan, 2010 issue (Volume XVII)
Jay Beeler, Publisher**

In recent years city officials – including the chief of police – have been untruthful during courtroom testimony or when making sworn statements regarding lobbyist activities.

Some officers have told the Beachcomber that representatives of the city attorney's office have encouraged them to lie under oath in an attempt to negate civil claims.

Four to five years ago several LBPD officers were retaliated against for truthfully reporting multiple misdemeanor and felonious activities in conjunction with the Lobstergate incident, resulting in civil lawsuits that cost the city several million dollars. There is yet another civil lawsuit currently underway by Lt. Randy Hausauer regarding this very same incident.

Other police officers have contacted the Beachcomber in response to some of our investigative reporting regarding Lobstergate and city wrongdoing.

DECLARATION OF WADE ANDREWS

1
2 1. I Wade Andrews, declare as follows:

3 2. I am over the age of 18. I am the property manager for the building located at 3970
4 Atlantic Avenue in Long Beach, California.

5 3. In early May, I was contacted by telephone by a person identifying himself as Erik Sund.
6 Mr. Sund identified that he works for the City of Long Beach. During the call, Mr. Sund told me that he
7 wanted the 562 patient collective that leases an office location in the 3970 Atlantic Ave. building to be
8 evicted. When I asked him why, he became agitated and told me if I did not evict the patient group, he
9 would revoke my business license and that I would never again be able to obtain a business license in the
10 City of Long Beach.

11 4. After the call, I notified the 562 patient group that the group had to cease operations and
12 vacate the premises within 30-days. I provided written notice to the group based on the threats made to
13 me by Mr. Sund.

14 5. Several days after the call from Mr. Sund, I received a notice by mail that I was to appear
15 before Mr. Sund for a business license revocation hearing. A true and correct copy of the notice of
16 business license revocation that I received is included with this declaration.

17 6. I have received Long Beach citations alleging that I am in violation of Long Beach
18 Municipal Code section 5.87. According to the citations, one of which is included with this declaration, I
19 am violating 5.87 because 562 collective group does not have a permit to cultivate medical marijuana in
20 the City of Long Beach.

21 7. I felt threatened by Mr. Sund. My wife was scheduled for surgery the day after Mr. Sund
22 called me. I was distressed and worried as a result of his call to me.

23 I declare under penalty of perjury under the laws of the State of California that the aforementioned
24 statement represents my personal knowledge and is true and correct.

25 Executed JUNE 6, 2011;

26
27
28 
Wade Andrews



CITY OF LONG BEACH

C-2

DEPARTMENT OF CITY CLERK

333 W. Ocean Boulevard, Lobby Level | Long Beach, CA 90802 | (562) 570-6101 FAX (562) 570-6769

August 14, 2012

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to refer to City Attorney damage claims received between July 30, 2012 and August 6, 2012.

DISCUSSION

In compliance with California law, the attached list of claims for damages is hereby presented to the City Council. The attached report lists claims for damages received by the City Clerk Department as of 12:00 noon each Monday.

Upon approval of the suggested action, the City Clerk Department will forward the list of claims for damages and copies of the corresponding documents to the City Attorney for further review and investigation.

FISCAL IMPACT

The processing of claims for damages is a budgeted service within the City Clerk Department FY12 Budget.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry Herrera".

Larry G. Herrera
City Clerk

Prepared by:
Maya Latimore

Attachment

**ATTACHMENT A
CITY CLERK CLAIMS REPORT
July 30, 2012 through August 6, 2012
PAGE 1 OF 1**

Agenda Date: August 14, 2012

Claimant Amount

| | |
|---------------------|----------------|
| Arroyo, Jr., Rafael | \$ 7,000.00 |
| Bell, Carlos T. | Amount Unknown |
| Carolina | Amount Unknown |
| Espinosa, Maria | 300.00 |
| Flores, Gabriel | 2,300.00 |
| Meyers, Cristyl A. | Amount Unknown |
| Muhammad, Aliuddin | 2,343.44 |
| Nyeche, Cynthia | Amount Unknown |
| O'Connell, James | 500.00 |
| Reid, Debra Ann | Amount Unknown |
| Wilson, Bernardette | 950.00 |

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SO"B"

HON. PATRICK T. MADDEN, JUDGE

CITY OF LONG BEACH,

PLAINTIFF,

VS.

562 COLLECTIVE,

DEFENDANT.

CASE NO. NC 055751

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JUNE 10, 2011

APPEARANCES:

FOR THE PLAINTIFF:

ROBERT E. SHANNON, CITY ATTORNEY
BY: KENDRA L. CARNEY
CITY HALL, ELEVENTH FLOOR
333 WEST OCEAN BOULEVARD
LONG BEACH, CALIFORNIA 90802

FOR THE DEFENDANT:

MATTHEW S. PAPPAS
ATTORNEY AT LAW
27260 LOS ALTOS, #1231
MISSION VIEJO, CALIFORNIA 92691

STEPHANIE A. MARTINEZ, CSR#5866
OFFICIAL REPORTER

1 CASE NUMBER: NC 055751
2 CASE NAME: CITY OF LONG BEACH VS. 562
3 COLLECTIVE
4 LONG BEACH, CALIFORNIA THURSDAY, JUNE 2, 2011
5 DEPARTMENT "B" HON. PATRICK T. MADDEN, JUDGE
6 REPORTER: STEPHANIE A. MARTINEZ, CSR#5866
7 TIME: A.M. SESSION

8 APPEARANCES:

9 KENDRA L. CARNEY, DEPUTY CITY ATTORNEY,
10 REPRESENTING THE PLAINTIFF; MATTHEW S. PAPPAS,
11 ATTORNEY AT LAW, REPRESENTING DEFENDANT.

12 THE COURT: THE COURT CALLS THE MATTER OF CITY OF
13 LONG BEACH VERSUS THE 562 COLLECTIVE, ET AL.

14 COUNSEL PLEASE COME FORWARD.

15 MR. PAPPAS: MATTHEW PAPPAS FOR THE DEFENDANTS.

16 MS. CARNEY: KENDRA CARNEY ON BEHALF OF CITY OF
17 LONG BEACH.

18 MR. STONE: JAMES STONE ON BEHALF OF PHILIP S. POLAND
19 AND THE TRUST. THIS IS A THIRD PARTY ON THE ORIGINAL CASE.
20 I HAVE NO INFORMATION ABOUT THIS HEARING OTHER THAN IT'S ON
21 THE CALENDAR. SO I REPRESENT ONE PARTY.

22 THE COURT: TELL ME WHO YOU REPRESENT?

23 MR. STONE: PHILIP S. POLAND TRUST. IT'S ON THE
24 ORIGINAL CASE AS A DEFENDANT.

25 THE COURT: IS HE A PARTY IN THIS CASE?

26 MR. STONE: HE'S A DEFENDANT.

27 THE COURT: AND HAVE YOU PREVIOUSLY APPEARED?

28 MR. STONE: NO, I HAVE NOT.

1 THE COURT: ALL RIGHT. WHY DON'T WE GIVE COUNSEL --
2 I SEE THERE PHILIP S. POLAND TRUST. CAN WE GET CHAIRS FOR
3 EVERYBODY? AND THERE'S A PROOF OF SERVICE.

4 BY WAY OF CLARIFICATION, COUNSEL, THE SERVICE
5 WAS EFFECTUATED APPARENTLY ON MARCH THE 24TH. ARE YOU COMING
6 INTO THE CASE?

7 MR. STONE: I'M ALREADY IN THE CASE. I FILED A
8 GENERAL DENIAL TO THE CITY'S --

9 THE COURT: YOU HAVE FILED.

10 MR. STONE: YES. AND I HAVE RECEIVED NO OTHER
11 NOTICE, BUT I DON'T THINK ANYBODY KNEW I CAME IN OR CARED.
12 BUT I'M HERE AND I AM REPRESENTING HIM. I HAVE NOTHING DO
13 WITH THIS HEARING OTHER THAN BEING SENT TO SEE WHAT HAPPENED.

14 THE COURT: THERE IT IS. YOU FILED AN ANSWER MAY
15 16TH. GO AHEAD AND HAVE A SEAT.

16 MR. STONE: THANK YOU.

17 THE COURT: I WAS NOT QUITE UNDERSTANDING -- I DIDN'T
18 REALIZE YOU WERE A PARTY IN THIS CASE. I SHOULD HAVE MORE
19 CAREFULLY EXAMINED THE FIRST PAGE OF THE COMPLAINT. SO AT
20 THIS POINT, SIR, YOU'RE AN INTERESTED BYSTANDER.

21 MR. STONE: THAT'S CORRECT, YOUR HONOR.

22 THE COURT: WE ARE HERE FOLLOWING A BRIEF HEARING ON
23 JUNE THE 2ND WHERE I SET THE MATTER DOWN FOR A HEARING TODAY,
24 ORDERED AN ABBREVIATED BRIEFING SCHEDULE ON THE EX PARTE
25 APPLICATION OF THE 562 COLLECTIVE REQUESTING A TEMPORARY
26 RESTRAINING ORDER AND AN ORDER TO SHOW CAUSE REGARDING
27 PRELIMINARY INJUNCTION. THE PARTIES HAVE NOW FILED THEIR
28 SUPPLEMENTAL PAPERS, AND WE ARE HERE TODAY FOR THE MATTERS

1 THAT WERE ORIGINALLY SET ON THE EX PARTE APPLICATION FOR JUNE
2 THE 2ND.

3 SO THE QUESTION THAT I HAVE -- I MIGHT AS WELL
4 KIND OF GET TO THE HEART OF IT. LET ME TURN TO COUNSEL FOR
5 THE CITY. SEEMS TO ME THAT THE CITY HAS CHOSEN A FORUM AND A
6 METHODOLOGY TO PROCEED THROUGH THE CIVIL COURT SEEKING A
7 RESTRAINING ORDER AS TO THE 562 COLLECTIVE OR IT'S ASKING FOR
8 THE COURT TO DECLARE THE 562 COLLECTIVE TO BE A SUB-NUISANCE
9 AND WANTS AN ABATEMENT OF THEIR ACTIVITIES IN THE CITY OF
10 LONG BEACH.

11 IT SEEMS TO ME THAT THE ALLEGATIONS ARE OF THE
12 OPPOSING PARTY IN THE CASE THAT IT'S ALLEGED THAT THE CITY,
13 THROUGH OFFICERS AND EMPLOYEES OF THE POLICE DEPARTMENT, AN
14 AGENCY OF THE CITY, ENGAGED IN CONDUCT THAT WAS NOT PART OF
15 FORMAL CIVIL DISCOVERY. IT WAS NOT BASED UPON A SEARCH
16 WARRANT. IT WAS NOT BASED UPON WHAT I WOULD REFER TO AS
17 EXIGENT CIRCUMSTANCES, INSTEAD, BASED UPON WHAT I READ,
18 OFFICERS USED A BATTERING RAM AND BROKE DOWN A DOOR AND
19 SEIZED DOCUMENTS IN THE COLLECTIVE. I DON'T SEE ANYTHING
20 PRESENTED BY THE CITY THAT SHOWS ANYTHING OTHER -- THERE'S
21 UNREBUTTED ALLEGATIONS THAT WERE MADE BY THE COLLECTIVE, AND
22 I DIDN'T SEE ANY RESPONSE TO THAT BY THE CITY.

23 MS. CARNEY: YOUR HONOR, THE DECLARATION FROM
24 LIEUTENANT JEFF COOPER, WHO SUPERVISES THE NARCOTICS -- OR
25 THE DRUG INVESTIGATION UNIT, I THINK -- HAS STATED THAT THEY
26 HAVE COMPLIED WITH ALL CONSTITUTIONAL REQUIREMENTS, BOTH
27 FEDERAL AND STATE, AND --

28 THE COURT: HE SAYS THAT BUT HE DOESN'T TELL ME WHAT

1 HE DID OTHER THAN "I OBEYED THE LAW."

2 MS. CARNEY: WELL, THAT --

3 THE COURT: THAT'S IN ESSENCE WHAT THE OFFICER SAYS.

4 MS. CARNEY: AND THE CITY HAS, AS I SAID BEFORE,
5 HAS -- THE POLICE DEPARTMENT HAS ENGAGED IN INVESTIGATIONS.
6 THEY'VE BEEN INVESTIGATING THESE SPECIFIC LOCATIONS. BUT
7 THESE DISPENSARIES NOW FOR A NUMBER OF YEARS NOW --

8 THE COURT: LET ME INTERRUPT. I SEE THIS IS OFFICER
9 COOPER.

10 MS. CARNEY: UH-HUH.

11 THE COURT: IT'S A VERY BRIEF DECLARATION. ONE PAGE.

12 "AT ALL TIMES I HAVE BEEN A POLICE OFFICER FOR
13 THE CITY OF LONG BEACH. I'M ASSIGNED TO DRUG INVESTIGATION."

14 PARAGRAPH 2. "I'VE BEEN A POLICE OFFICER FOR
15 25 YEARS, ASSIGNED TO DRUG INVESTIGATION FOR EIGHT YEARS.
16 I'VE SUPERVISED" -- THIS AND THAT.

17 PARAGRAPH 3. "THE POLICY TRAINING PRACTICES
18 OF THE POLICE DEPARTMENT IS TO COMPLY WITH THE REQUIREMENTS
19 OF THEN CONSTITUTIONAL FEDERAL AND STATE LAWS."

20 PARAGRAPH 4. "DURING THE COURSE OF
21 NARCOTICS-RELATED INVESTIGATIONS POLICE OFFICERS ARE
22 AUTHORIZED TO USE FORCE AND ARREST SUSPECTS."

23 THESE ARE ALL GENERAL STATEMENTS.

24 PARAGRAPH 5. "THE LONG BEACH POLICE
25 DEPARTMENT HAS RELIED UPON AND FOLLOWED ITS TRAINING AND
26 PRACTICES AND COMPLIED WITH THE REQUIREMENTS OF THE FOURTH
27 AMENDMENT DURING ALL INVESTIGATIONS INVOLVING MEDICAL
28 MARIJUANA COLLECTIVES, INCLUDING THOSE INVESTIGATED AT OR IN

1 CONNECTION WITH 3970 ATLANTIC AVENUE IN THE CITY OF
2 LONG BEACH, WHICH I BELIEVE TO BE THE LOCALE OF THE 562
3 COLLECTIVE."

4 WITH ALL DUE RESPECT, I DON'T THINK IT'S UP TO
5 OFFICER COOPER TO TELL ME WHETHER OR NOT HE'S COMPLIED. IF
6 THAT WERE THE CASE, WE WOULDN'T NEED JUDICIAL OFFICERS TO
7 DETERMINE WHETHER THERE IS PROBABLE CAUSE TO ISSUE A SEARCH
8 WARRANT, AN ARREST WARRANT, WHETHER THERE'S PROBABLE CAUSE TO
9 HOLD THE DEFENDANT TO ANSWER FOR A FELONY, ET CETERA, ET
10 CETERA, ET CETERA.

11 THERE IS NOT -- THERE'S NOT ONE FACT IN HERE
12 THAT REBUTS ANY OF THE ALLEGATIONS MADE BY THE DEFENDANTS
13 THAT IT WAS A SEARCH NOT INCIDENT TO A LAWFUL SEARCH WARRANT
14 OR ANY SEARCH WARRANT OR THAT ANY EXIGENT CIRCUMSTANCES
15 EXISTED.

16 AND, THIRDLY, THAT A BATTERING RAM DEVICE WAS
17 USED TO BREAK DOWN A DOOR AND SEIZE DOCUMENTS AS TO AN
18 OPPONENT IN A CIVIL CASE.

19 MS. CARNEY: I UNDERSTAND, YOUR HONOR. FIRST, THE
20 CITY BELIEVES THAT THE DEFENSE HAS MADE ALLEGATIONS
21 UNSUPPORTED BY EVIDENCE CONCERNING THE CIRCUMSTANCES. AND --

22 THE COURT: I'M SORRY. I JUST WANTED TO FOCUS ON THE
23 WORDS "THE PLAINTIFF BELIEVES THAT THE DEFENDANTS."

24 MS. CARNEY: DEFENDANTS HAVE MADE ALLEGATIONS NOT
25 SUPPORTED BY EVIDENCE CONCERNING THE EVENTS THAT THEY ALLEGE
26 OCCURRED AT THE 562 COLLECTIVE.

27 WHILE I'M NOT DISPUTING THE POLICE DO CONDUCT
28 REGULAR INVESTIGATIONS AND THOSE INVESTIGATIONS DID INCLUDE

1 AN INVESTIGATION OF 562, OTHER THAN STATING AT THIS TIME THAT
2 THEY COMPLIED WITH ALL THE REQUIREMENTS OF THE CONSTITUTION,
3 IF THE DEFENDANTS WOULD LIKE TO BRING A 1983 CLAIM, AS I
4 DISCUSSED IN MY FURTHER OPPOSITION, THEY'RE WELCOME TO DO SO.
5 AT THAT POINT WE MAY BE REQUIRED TO DISCLOSE SPECIFICALLY THE
6 EXIGENT CIRCUMSTANCES. BUT AS FAR AS THE MATTER THAT WE'RE
7 HERE FOR TODAY, THE CITY'S POSITION IS THAT WE DID SUPPLY
8 INFORMATION DENYING THEIR ALLEGATIONS AND THAT --

9 THE COURT: I DISAGREE WITH THAT STATEMENT. I THINK
10 YOU DENIED THE ALLEGATIONS, BUT I DON'T THINK YOU SUPPLIED
11 ANY FACTS TO REBUT THE ALLEGATIONS.

12 MS. CARNEY: I UNDERSTAND. I THINK THAT'S CORRECT.

13 THE COURT: I THINK THERE IS A DIFFERENCE WITH A
14 DISTINCTION.

15 MS. CARNEY: I AGREE.

16 THE COURT: ALL RIGHT. WELL, THE REQUEST OF THE
17 DEFENDANT IS ASKING THE COURT TO ENJOIN THE ENFORCEMENT OF
18 THE ORDINANCE IN QUESTION. AND I WILL SAY I'VE GIVEN THIS
19 MATTER A GREAT DEAL OF THOUGHT. HERE'S WHAT I -- HERE'S THE
20 BENEFIT OF MY THOUGHTS.

21 AS I'VE NOTED EARLIER, THE CITY HAS BROUGHT
22 THIS CIVIL CASE WHERE IT IS THE PLAINTIFF AND IT SEEKS TO
23 ABATE WHAT IT CALLS A PUBLIC NUISANCE, THE OPERATION OF THE
24 562 COLLECTIVE, WHICH IT ALLEGES SHOULD NOT BE PERMITTED TO
25 OPERATE IN THE CITY.

26 ON THE OTHER END OF THE TABLE, THE DEFENDANT
27 CONTENTS THAT -- I BELIEVE IT WAS ON MAY THE 9TH OF THIS YEAR
28 AGENTS OF THE PLAINTIFF, SPECIFICALLY POLICE OFFICERS FROM

1 THE CITY OF LONG BEACH, BROKE DOWN A LOCKED DOOR WITHOUT A
2 SEARCH WARRANT AND, IT'S CONTENDED BY THE DEFENDANT, WITHOUT
3 ANY EXIGENT CIRCUMSTANCES AND SIZED PROPERTY AT THE LOCATION.
4 AND, IN ADDITION, EMPLOYEES OR CUSTOMERS OR CLIENTS OR
5 PATIENTS WERE ARRESTED BY POLICE OFFICERS.

6 I AGREE WITH THE CITY THAT THERE MAY BE VIABLE
7 CLAIMS BROUGHT BY THOSE PEOPLE SHOULD THERE BE A VIOLATION OF
8 THEIR CONSTITUTIONAL RIGHTS. THOSE CLAIMS I DON'T THINK ARE
9 CLEARLY BEFORE THIS COURT. THERE AREN'T ANY SECTION 1983
10 CLAIMS ASSERTED IN THIS ACTION. BUT THAT I DON'T THINK IS
11 THE FULL ANSWER TO WHAT IT IS THAT'S, SHALL WE SAY, GOING ON.

12 SO AS THE PARTIES ARE AWARE, THIS COURT
13 PREVIOUSLY FOUND THAT THE MUNICIPAL CODE THAT'S IN QUESTION
14 HERE WAS CONSTITUTIONAL IN THE NC 055010 AND NC 055053 CASES.
15 AS EVERYBODY HERE KNOWS, THOSE CASES ARE NOW ON APPEAL AND
16 BEFORE THE CASE IN B 228781. I DON'T THINK THERE'S ANY
17 EXPECTATION THAT THERE WILL BE A QUICK AND IMMEDIATE RULING
18 FROM THE COURT OF APPEAL.

19 MR. PAPPAS: WELL, THE COURT OF APPEAL HAS INDICATED,
20 YOUR HONOR, THAT IT WILL NOT GO PAST SEPTEMBER IN HAVING THE
21 HEARING AND QUICKLY MAKING A RULING IN THAT CASE.

22 THE COURT: THIS IS NOW JUNE.

23 MR. PAPPAS: YES, IT IS.

24 THE COURT: I'M SAYING THAT YOU'RE NOT EXPECTING
25 ANYTHING DAY AFTER TOMORROW.

26 MR. PAPPAS: NO, WE'RE NOT EXPECTING ANYTHING DAY
27 AFTER TOMORROW.

28 THE COURT: IT'S GOING TO TAKE A WHILE. IT'S QUICKER

1 THAN WAITING TWO YEARS, BUT IT'S NOT INSTANTANEOUS.

2 SO HERE'S WHAT I SEE. IT SEEMS TO ME THAT THE
3 CITY IN THIS CASE COULD HAVE PROSECUTED THE DEFENDANT IN A
4 CRIMINAL COURT FOR VARIOUS VIOLATIONS, BUT IT DIDN'T CHOOSE
5 TO DO SO, AS OPPOSED TO USING THE CRIMINAL COURTS IT CHOSE TO
6 USE A CIVIL COURT TO ENFORCE ITS ORDINANCE AGAINST THE
7 COLLECTIVE.

8 AS I SEE IT, THE CITY BY DOING THIS PLACED
9 ITSELF WITHIN THE CIVIL COURT FRAMEWORK, AND IT SEEMS TO ME
10 THAT THE RULES APPLY TO ALL LITIGANTS, WHETHER THE LITIGANT
11 IS A MUNICIPALITY OR AN AGENCY OF A MUNICIPALITY, SUCH AS THE
12 POLICE, AND THERE'S A REQUIREMENT THAT THE PARTIES USE CIVIL
13 DISCOVERY PROCEDURES TO OBTAIN THEIR EVIDENCE.

14 SO THE WAY I'M VIEWING THE CASE IS THE CLAIMS
15 OF THE DEFENDANT ARE POSSIBLE VIOLATIONS OF THE RIGHTS OF
16 OPPOSING COUNSEL -- OR OPPOSING PARTIES IN THE CONTEXT OF
17 CIVIL DISCOVERY. AND SINCE THE CITY HAS CHOSEN THE FORUM,
18 THE CIVIL FORUM AS OPPOSED TO THE CRIMINAL FORUM, IT SEEMS TO
19 ME THAT THE AGGRIEVED PARTY, IN THIS CASE THE DEFENDANT, CAN
20 SEEK THE SAME RIGHTS AS ANY OTHER LITIGANT IN A CIVIL
21 CONTEXT, SUCH AS A REQUEST FOR A PROTECTIVE ORDER THAT COULD
22 PROTECT THE AGGRIEVED PARTY'S RIGHTS.

23 I THINK THAT THE VEHICLE THAT'S POTENTIALLY
24 AVAILABLE TO THE DEFENDANT IS CODE OF CIVIL PROCEDURE SECTION
25 2023.010 SUBDIVISION C, WHICH IS A STATUTE THAT DEALS WITH
26 MISUSES OF DISCOVERY PROCESS AND, SUBDIVISION C, EMPLOYING A
27 DISCOVERY METHOD IN A MANNER OR TO AN EXTENT THAT CAUSES
28 UNDUE ANNOYANCE, EMBARRASSMENT OR UNDUE EXPENSE -- TO QUOTE

1 THE STATUTE.

2 AFTER VIEWING THE CASE IN THE CONTEXT OF
3 PROCEDURALLY WHERE WE ARE AND PROCEDURALLY WHERE THIS CASE
4 FITS INTO THE MATRIX OF OTHER CASES, I DON'T THINK IT WOULD
5 BE AN APPROPRIATE REMEDY FOR THE COURT TO, IF YOU WILL, TURN
6 ON ITS HEAD THE PRIOR RULING THE COURT MADE UNTIL THERE'S
7 BEEN A RESPONSE FROM THE COURT OF APPEAL THAT WOULD REVERSE
8 THE PRIOR DECISION OF THE COURT. MAY OCCUR.

9 THERE'S TWO OUTCOMES THAT ARE GOING TO TAKE
10 PLACE IN THE COURT OF APPEAL. ONE IS AN AFFIRMANCE; THE
11 OTHER IS A REVERSAL. THEY HAPPEN EVERY DAY.

12 IF THERE'S AN AFFIRMANCE, THE STATUTE IS HELD
13 TO BE CONSTITUTIONAL. PLAINTIFF CITY IN THIS CASE GOES
14 FORWARD. CASE GOES IN THE OTHER DIRECTION, THERE WOULD BE
15 OBVIOUSLY SIGNIFICANT CONSEQUENCES TO BOTH PARTIES IN THIS
16 CASE. PROBABLY MOOT THIS CASE.

17 SO IT SEEMS TO ME THAT THE CONTEXT OF WHAT'S
18 TAKEN PLACE IS, AS I SEE IT, SELF-HELP DISCOVERY BY ONE PARTY
19 AS TO THE OTHER PARTY. AND THAT'S WITHOUT DECIDING THE
20 MERITS. BUT THAT'S THE WAY I SEE IT BASED UPON THE PAPERWORK
21 THAT I'VE SEEN, AND I THINK IT CAN BE COUCHED IN THAT FASHION
22 AND I THINK THE POTENTIAL REMEDY IS FOR THE DEFENDANT TO SEEK
23 A PROTECTIVE ORDER FROM THE CITY. AT THAT POINT THE CITY CAN
24 EXPLORE, IF IT WHOSE TO DO SO, WHY A PROTECTIVE ORDER ISN'T
25 APPROPRIATE OR WHY IT'S NOT NECESSARY.

26 BUT I DON'T THINK THAT THE INJUNCTIVE RELIEF
27 AS PRAYED FOR IS ANYTHING THAT WOULD BE APPROPRIATE IN THE
28 CIRCUMSTANCES OF THIS CASE. IT WOULD BE -- IT WOULD BE

1 GIVING THE DEFENDANT A RESULT THAT IT MAY GET, BUT I THINK
2 IT'S ENTITLED TO GET THAT RESULT ONLY AFTER IT'S PROVED ITS
3 CASE AND NOT BECAUSE OF WHAT THE ACTIVITIES ARE AS ALLEGED.

4 MR. PAPPAS: THEN, YOUR HONOR, I'D LIKE TO MOVE AT
5 THIS TIME UNDER C.C.P. 2023.010(C) FOR A PROTECTIVE ORDER
6 BASED ON THE INFORMATION AS PROVIDED IN THESE PAPERS.

7 THE COURT: YOU CAN'T GET RELIEF --

8 MR. PAPPAS: EX PARTE.

9 THE COURT: -- EX PARTE ON DISCOVERY MATTERS. I
10 THINK YOU NEED TO FILE YOUR MOTION. I THINK THAT WHAT YOUR
11 REMEDY IS, YOU'RE GOING TO HAVE TO THINK THROUGH -- I'M NOT
12 HERE TO TELL EITHER PARTY HOW TO ADDRESS YOUR PERCEIVED NEED
13 FOR A PROTECTIVE ORDER. WHAT I'M DOING IS TELLING YOU THAT
14 YOUR REQUESTED RELIEF I THINK, AS I SEE IT, IS NOT
15 APPROPRIATE. I DON'T THINK YOU'RE ENTITLED TO GET THE END
16 RESULT BECAUSE OF A PERCEIVED WRONGFUL CONDUCT OF YOUR
17 OPPONENT.

18 I THINK THAT YOU HAVE ANOTHER VEHICLE THAT YOU
19 CAN USE, WHICH IS A PROTECTIVE ORDER, WHICH CAN ABATE, IF YOU
20 WILL, THE -- ANY WRONGFUL CONDUCT YOU PERCEIVE HAPPENED. BUT
21 YOU NEED TO CAREFULLY THINK ABOUT WHETHER I'M RIGHT OR NOT.
22 I'M GIVING YOU WHAT I THINK IS YOUR REMEDY. YOU NEED TO DO
23 YOUR OWN DUE DILIGENCE AND ENSURE THAT'S WHAT THE CASE IS, IF
24 THAT IS THE CASE. AND, SECONDLY, YOU HAVE TO THINK OUT VERY
25 CAREFULLY WHAT YOU THINK YOUR NEED IS, WHAT THE CONTOURS ARE
26 OF THE PROTECTIVE ORDER.

27 I CAN'T DO THAT FOR YOU. THAT'S WHY WE HAVE
28 TWO SIDES, AND THAT'S WHY YOU NEED TO MAKE THE REQUEST FOR

1 RELIEF AND THE OTHER SIDE THEN GETS TO RESPOND AND THEN
2 THROUGH THE ADVERSARY SYSTEM YOU GET YOUR PROTECTIVE ORDER OR
3 YOU DON'T. AND YOU GET A PROTECTIVE ORDER, WHAT THE CONTOURS
4 ARE IS SOMETHING THAT WOULD EITHER BE BY WAY OF YOUR IDEAS OR
5 YOUR IDEAS WITH THE OTHER SIDE'S INPUT, WHICH IS TYPICALLY
6 DONE IN THE CONTEXT OF A MOTION.

7 I THINK YOU NEED TO FILE A MOTION FOR
8 PROTECTIVE ORDER. AND I'M SAYING ALL THIS BECAUSE I THINK
9 THAT YOU HAVE SOME RIGHT BASED UPON WHAT I'VE READ, BUT I
10 DON'T THINK IT'S TO GET AN INJUNCTION THAT YOUR CASE PREVAILS
11 AND THE CASE IS OVER. THE STATUTE IS UNCONSTITUTIONAL.
12 THAT MAY BE THE CASE, BUT I DON'T THINK IT'S SOMETHING THAT
13 CAN BE DECIDED IN THE CONTEXT OF WHAT TOOK PLACE.

14 MR. PAPPAS: I MEAN, THIS MOTION IS FOR INJUNCTIVE
15 RELIEF BECAUSE OF CONDUCT THAT'S CLEARLY OUTSIDE THE SCOPE OF
16 WHAT THE CITY SHOULD BE DOING. AND I WOULD AGAIN REITERATE
17 THE ARGUMENT THAT IN FACT THE APPELLATE COURTS -- THIS ISN'T
18 AN APPEAL THAT'S UP BEFORE THE APPEAL COURT. THIS IS AN
19 EXTRAORDINARY WRIT WHERE THE COURT HAS MADE A DECISION THAT
20 THERE WAS A PART OF THIS COURT'S ORDER IN THE PACK CASE
21 THAT -- WHERE IT HAD NOT CONSIDERED FEDERAL PREEMPTION.

22 I THINK LAST WEEK WHEN WE WERE BEFORE THE
23 COURT THE COURT INDICATED THAT IT WAS NOT GOING TO REVISIT AN
24 ANALYSIS OF CONSTITUTIONALITY. BUT THE ANALYSIS DURING THE
25 PACK HEARING THAT WE HAD, YOUR HONOR, WAS AN ANALYSIS OF
26 CONSTITUTIONALITY IN RESPECT TO STATE LAW PREEMPTION.
27 BECAUSE THE COURT IMMEDIATELY DEFINING OF THAT HEARING SAID
28 THAT IT WAS NOT GOING TO CONSIDER FEDERAL PREEMPTION. THAT

1 IS IN THE COURT'S ORDER NOVEMBER 2ND. THIS COURT WILL NOT
2 CONSIDER FEDERAL PREEMPTION.

3 THE APPELLATE COURT'S ORDER ON NOVEMBER 15TH
4 IS THE TRIAL COURT SHOULD HAVE CONSIDERED FEDERAL PREEMPTION.
5 THEN IT LISTED THE ISSUES THAT THE TRIAL COURT NEEDED TO
6 CONSIDER. IT LISTED THOSE ISSUES SPECIFICALLY AND IT ASKED
7 THE CITY TO ADDRESS THEM.

8 THE CITY DELAYED SEVERAL TIMES. FINALLY, WHEN
9 THE CITY DID EVENTUALLY ADDRESS THE ISSUES, THE COURT SAID IT
10 WANTED AMICUS CURIAE BRIEFING FROM THE CITY OF LOS ANGELES
11 AND THE LEAGUE OF CALIFORNIA CITIES.

12 IT WOULD BE -- 92 PERCENT OF WRIT APPLICATIONS
13 ARE DENIED. EXTRAORDINARY WRIT APPLICATIONS ARE DENIED. IT
14 SEEMS THAT THE APPELLATE COURT, AND IT HAS SAID SO IN ITS
15 LETTERS AS WELL AS ITS ORDERS IT, CONSIDERS THIS TO BE A VERY
16 IMPORTANT ISSUE, THAT THIS IS SOMETHING THAT COULD AFFECT
17 PROBABLY -- THE REASON WHY IT WOULD NAME THE CITY OF
18 LOS ANGELES AS THE FIRST AMICUS CURIAE IS BECAUSE THAT CITY
19 HAS AN ORDINANCE AS WELL, AND THE LEAGUE OF CALIFORNIA CITIES
20 IS THE SECOND BECAUSE THAT CITY -- THAT ORGANIZATION
21 REPRESENTS CITIES, MANY OF THEM THAT HAVE ORDINANCES AS WELL
22 IN THIS AREA.

23 AND THE --

24 THE COURT: MR. PAPPAS, I HEAR WHAT YOU'RE SAYING. I
25 DISAGREE SLIGHTLY WITH YOUR CHARACTERIZATION. I THINK YOU
26 STARTED OUT SAYING THAT THE COURT OF APPEAL IN THIS ORDER --
27 I THINK YOU SAID STATED THAT THIS COURT, THIS COURT, THIS
28 TRIAL COURT IMPROPERLY FAILED TO CONSIDER CERTAIN THINGS AND

1 IT WISHED TO HAVE THEM DONE -- I THINK THE CONTEXT IS THE
2 COURT OF APPEAL WISHED TO CONSIDER THESE THINGS IN ITS
3 BRIEFING AND IT SENT OUT ORDERS TO THE AMICII, ET CETERA, TO
4 ADDRESS THESE ISSUES.

5 I THINK WE WILL ALL WAIT WITH GREAT INTEREST
6 WHAT THE COURT OF APPEAL IS GOING TO DO. IT WOULD SEEM TO ME
7 THAT THE CONTEXT IS VERY CLEAR. COURT OF APPEAL IS GOING TO
8 ADDRESS ISSUES. THERE'S GOING TO BE -- THERE'S A BRIEFING
9 SCHEDULE. THE PARTIES HAVE BEEN NOTIFIED. THE BRIEFS WILL
10 BE FILED AND THERE WILL BE, SHALL WE SAY, CLARIFICATION FROM
11 THE COURT OF APPEAL AS TO WHAT IT CONSIDERS TO BE A VALID
12 ORDER FROM THIS TRIAL COURT.

13 MR. PAPPAS: AND IN THE MEANTIME --

14 THE COURT: OR INVALID ORDER FROM THIS COURT.

15 MR. PAPPAS: IN THE MEANTIME, THE CITY IS GOING OUT
16 AND CONDUCTING THESE RAIDS AFTER FILING LAWSUITS WITH THIS
17 COURT. THEY'D FILED THE LAWSUIT AGAINST THE 562. IT HAS
18 ASKED FOR DECLARATORY RELIEF, IT ASKED FOR NUISANCE
19 ABATEMENT, AND IT'S ASKED THIS COURT TO GO AHEAD AND MAKE A
20 DETERMINATION WITH RESPECT TO THE RIGHTS OF THE PARTIES.
21 THOSE ARE THE CORE ELEMENTS OF A CAUSE OF ACTION FOR
22 DECLARATORY RELIEF. AND INSTEAD IT HAS GONE OUT PRIOR TO
23 THIS COURT EVEN HAVING AN OPPORTUNITY TO HEAR THE CASE AND
24 STARTED ATTACKING THE 562 COLLECTIVE. NOT ONLY THE 562.

25 MS. CARNEY PROPERLY NOTICED LAST WEEK THAT I
26 HAD PUT THE INCORRECT PHOTOGRAPHS IN THE -- IN THE MOVING
27 PAPERS. THE APPLICATION. THAT'S ANOTHER COLLECTIVE THAT IT
28 HAS RAIDED. SO IT'S CONTINUING THIS BEHAVIOR. DESPITE THE

1 FACT THAT THE APPELLATE COURT HAS MADE THESE -- YOU'RE RIGHT,
2 AND I DIDN'T -- TO JUST ADDRESS WHAT YOU HAD SAID ABOUT THE
3 APPELLATE COURT. I HOPE I DIDN'T SAY THAT IT HAD FOUND THIS
4 COURT MADE AN ERROR. IT DID NOT FIND THAT. IT SAID IT
5 WANTED TO VISIT THE ISSUE. IT WANTED TO LOOK INTO THAT
6 ISSUE.

7 THE COURT: I THOUGHT YOU SAID THAT THE COURT OF
8 APPEAL WANTED THIS COURT TO ADDRESS THOSE ISSUES AND IT SET
9 OUT --

10 MR. PAPPAS: NO, I DON'T THINK IT SAID IT WANTED THIS
11 COURT TO ADDRESS IT. IT WANTED THE PARTIES TO ADDRESS THE
12 COURT OF APPEAL TO DO SO.

13 I THINK WHEN THE CITY ASKED FOR THIS COURT'S
14 REVIEW OF FACTS AND CIRCUMSTANCES AND THE LAW RELATED TO
15 WHAT'S GOING ON WITH THIS 562 COLLECTIVE AND ITS LAW --
16 BECAUSE THE CITY HAS IN ITS COMPLAINT RAISED IN EVERY CAUSE
17 OF ACTION AND BASED ITS CLAIMS ON 5.87 THEN ASKED FOR
18 DECLARATORY RELIEF IN THAT REGARD, THAT IT SHOULD BE -- IT
19 SHOULD WAIT FOR THIS COURT TO MAKE A DETERMINATION BEFORE
20 SENDING ITS OFFICERS OUT TO TAKE ACTION.

21 I KNOW THE COURT IS ADDRESSING THIS DISCOVERY
22 PROCEDURE. BUT WHAT ARE THE PARTIES TO DO IN THE MEANTIME --
23 OR THE DEFENDANTS DO IN THE MEANTIME WHILE THE CITY IS
24 ENGAGING IN THIS CONDUCT? IT'S -- WE'LL FILE A NOTICED
25 MOTION UNDER THIS SECTION AND WE'LL CRAFT THE RELIEF TO BE
26 MORE SPECIFIC. I THINK THAT'S WHAT THE COURT IS SAYING. BUT
27 IN THE MEANTIME THE CITY JUST THIS WEEK HAS ARRESTED ANOTHER
28 INDIVIDUAL UNDER 5.87 AT A DIFFERENT COLLECTIVE THAT IS ON

1 ANOTHER LAWSUIT THAT HAS BEEN FILED BY THE CITY AGAINST THAT
2 COLLECTIVE.

3 MS. CARNEY: YOUR HONOR, IT'S MISSTATING BOTH MY
4 PREVIOUS COMMENTS AND WHAT HE BELIEVES MAY HAVE OCCURRED.
5 THE POLICE, AS I SAID, HAVE DONE REGULAR INVESTIGATIONS. IN
6 THE COURSE OF THESE INVESTIGATIONS THEY'VE BEEN INVITED INTO
7 MULTIPLE COLLECTIVES WITHIN THE CITY AS PART OF THE PERMIT
8 PROCESS AS WELL, AND SOMETIMES THEY HAVE ARRESTED PEOPLE WHO
9 HAVE WARRANTS FOR OTHER THINGS.

10 MR. PAPPAS: YOUR HONOR, I HAVE TO SAY THAT --

11 THE COURT: TIME OUT.

12 MR. PAPPAS: -- THE COLLECTIVES HAVE NEVER INVITED
13 THE CITY IN.

14 THE COURT: MR. PAPPAS. MR. PAPPAS.

15 MR. PAPPAS: YES.

16 THE COURT: WHAT I CAN SAY, THIS IS A FORUM THAT
17 RESOLVES DISPUTES BEFORE IT. I CAN'T AND I DON'T HANDLE
18 OTHER DISPUTES THAT ARE NOT CLEARLY IN THIS CASE. THIS ISN'T
19 THE WORLD COURT TO SOLVE ALL THE PROBLEMS OF THE WORLD. IT'S
20 A CASE-BY-CASE BASIS. WHAT MAY BE HAPPENING TO OTHERS --
21 THEY HAVE THEIR REMEDIES IN OTHER FORUMS.

22 MR. PAPPAS: I WOULD AGREE, YOUR HONOR. EXCEPT IN
23 THIS OPPOSITION PAPERWORK, THE SUPPLEMENTAL OPPOSITION,
24 MS. CARNEY REFERS REGULARLY TO THIS BEING AN ISOLATED
25 INCIDENT AND THIS IS A ONE-TIME THING.

26 I CAN GO RIGHT THROUGH HERE AND FIND EXACTLY
27 WHERE SHE SAYS THAT. BUT I READ THAT. AND THE FACT IS THAT
28 IT'S NOT ISOLATED. THIS IS SOMETHING THE CITY HAS CONTINUED

1 TO DO. AND AT LEAST UNTIL THIS COURT HAS AN OPPORTUNITY TO
2 RULE AND THE COURTS IN THE OTHER CASES THAT SHE'S REFERRING
3 TO HEREBY BRINGING UP ISOLATED -- THAT THEY HAVE AN
4 OPPORTUNITY TO RULE AND THAT THE CITY SHOULD NOT BE JUST
5 RUNNING RAMPANT OVER PEOPLE'S RIGHTS WHILE ASKING THE CIVIL
6 COURTS TO RENDER A DECISION AND A JUDGMENT.

7 IN RESPECT TO THE SAME ORDINANCE THAT'S AT
8 ISSUE BEFORE THE APPELLATE COURT, IT JUST DOESN'T MAKE --
9 IT'S NOT APPROPRIATE. AND I KNOW WE'VE BEEN BEFORE THE COURT
10 BEFORE IN RESPECT TO 5.87 AND THE COURT HAS MADE ITS DECISION
11 WITH RESPECT TO CONSTITUTIONALITY. I THINK THERE IS A
12 SIGNIFICANT QUESTION AS TO THE CONSTITUTIONALITY AND THAT
13 THERE'S AT LEAST A MAYBE 50/50, YOU HAD SAID IT EARLIER,
14 OPPORTUNITY THAT THE COURT WILL COME BACK AND AFFIRM THIS
15 COURT. WE DON'T KNOW.

16 THE COURT: IT'S A HUNDRED PERCENT THEY'RE GOING TO
17 DO SOMETHING.

18 MR. PAPPAS: HUNDRED PERCENT THEY'LL DO SOMETHING.
19 THAT'S RIGHT. BUT THIS BEHAVIOR BY THE CITY WHERE IT'S GOING
20 OUT AND BATTERING DOWN DOORS AND ARRESTING PEOPLE AFTER IT'S
21 INVOKED THIS CASE HERE IS INAPPROPRIATE. I DO THINK A
22 RESTRAINING ORDER AND INJUNCTIVE RELIEF IS APPROPRIATE. I
23 SEE WHAT THE COURT SAID, BUT IN THE MEANTIME THE CITY HAS
24 CONTINUED ITS BEHAVIOR.

25 THE COURT: CITIZENS HAVE RIGHTS. THE UNITED STATES
26 CONGRESS ENACTED CITIZENS WHO GIVE RIGHTS AGAINST OFFICERS
27 WHO VIOLATE THOSE RIGHTS, AND THOSE CASES COME BEFORE THIS
28 AND OTHER CIVIL COURTS.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In the Matter of Matthew S. Pappas,)
Respondent)

CASE NO.
CV 16-04044 SJO-PA-MWF

**ORDER IMPOSING
DISCIPLINE AGAINST
MATTHEW S. PAPPAS
L.R. 83.3.1.7**

1 The Court having considered Section 3 of the STANDING COMMITTEE ON
2 DISCIPLINE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS, L.R.
3 83.3.1.7, regarding Matthew S. Pappas, which was approved unanimously in a
4 telephonic meeting with a quorum of the the Central District's Standing Committee
5 on Attorney Discipline ("Standing Committee") and the complaint of Judge Steven
6 Wilson, it is hereby Ordered, that Mr. Pappas be suspended from practice in the
7 Central District of California for a period of no less than six months and that before he
8 may be re-admitted to practice in this District, he must provide to the Standing
9 Committee under Local Rule 83-3.1.8, competent evidence of the following:

- 10 1. Successful completion of an MCLE course re law office management and
11 the acquisition of calendaring software;
- 12 2. Enrollment and continuing participation for a minimum of six months in
13 the State Bar of California's Lawyer Assistance Program for mental health
14 counseling; and
- 15 3. Payment of the sanctions imposed by Judge Wilson in the amount of
16 \$3,263.01 in the *Nation* matter.

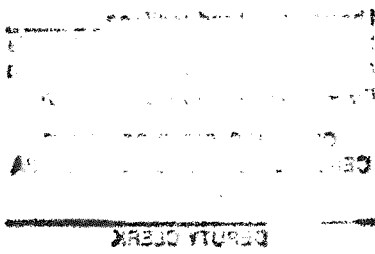
17 It is further Ordered that:

- 18 4. Within 10 court days of service of this Order Mr. Pappas provide notice
19 to the Standing Committee that he advised all clients he represents in matters pending
20 before the Central District of California of this Order, and that he is assisting those
21 clients in securing counsel for their matters; and

1 5. That the California State Bar be notified of the Court's decision on this
2 matter.

3
4 DATED: June __, 2016
5

6 _____
7 U.S. District Court Judges
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I hereby attest and certify on 9/16/16
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Dina Mitchell
DEPUTY CLERK



(1099)

RULES OF PROFESSIONAL CONDUCT

(7) the member's belief, if applicable, that good faith efforts to persuade a client not to act on a threat have failed.

[10] *Avoiding a chilling effect on the lawyer-client relationship.* The foregoing flexible approach to the member's informing a client of his or her ability or decision to reveal confidential information recognizes the concern that informing a client about limits on confidentiality may have a chilling effect on client communication. (See Discussion paragraph [1].) To avoid that chilling effect, one member may choose to inform the client of the member's ability to reveal information as early as the outset of the representation, while another member may choose to inform a client only at a point when that client has imparted information that may fall under paragraph (B), or even choose not to inform a client until such time as the member attempts to counsel the client as contemplated in Discussion paragraph [7]. In each situation, the member will have discharged properly the requirement under subparagraph (C)(2), and will not be subject to discipline.

[11] *Informing client that disclosure has been made; termination of the lawyer-client relationship.* When a member has revealed confidential information under paragraph (B), in all but extraordinary cases the relationship between member and client will have deteriorated so as to make the member's representation of the client impossible. Therefore, the member is required to seek to withdraw from the representation (see rule 3-700(B)), unless the member is able to obtain the client's informed consent to the member's continued representation. The member must inform the client of the fact of the member's disclosure unless the member has a compelling interest in not informing the client, such as to protect the member, the member's family or a third person from the risk of death or substantial bodily harm.

[12] *Other consequences of the member's disclosure.* Depending upon the circumstances of a member's disclosure of confidential information, there may be other important issues that a member must address. For example, if a member will be called as a witness in the client's matter, then rule 5-210 should be considered. Similarly, the member should consider his or her duties of loyalty and competency (rule 3-110).

[13] *Other exceptions to confidentiality under California law.* Rule 3-100 is not intended to augment, diminish, or preclude reliance upon, any other exceptions to the duty to preserve the

confidentiality of client information recognized under California law. (Added by order of the Supreme Court, operative July 1, 2004.)

Rule 3-110 Failing to Act Competently

(A) A member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

(B) For purposes of this rule, "competence" in any legal service shall mean to apply the 1) diligence, 2) learning and skill, and 3) mental, emotional, and physical ability reasonably necessary for the performance of such service.

(C) If a member does not have sufficient learning and skill when the legal service is undertaken, the member may nonetheless perform such services competently by 1) associating with or, where appropriate, professionally consulting another lawyer reasonably believed to be competent, or 2) by acquiring sufficient learning and skill before performance is required.

Discussion:

The duties set forth in rule 3-110 include the duty to supervise the work of subordinate attorney and non-attorney employees or agents. (See, e.g., *Waysman v. State Bar* (1986) 41 Cal.3d 452; *Trousil v. State Bar* (1985) 38 Cal.3d 337, 342 [211 Cal.Rptr. 525]; *Palomo v. State Bar* (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]; *Crane v. State Bar* (1981) 30 Cal.3d 117, 122; *Black v. State Bar* (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288; 499 P.2d 968]; *Vaughn v. State Bar* (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713; 494 P.2d 1257]; *Moore v. State Bar* (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161; 396 P.2d 577].)

In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances. (Amended by order of Supreme Court, operative September 14, 1992.)

Rule 3-120 Sexual Relations With Client

(A) For purposes of this rule, "sexual relations" means sexual intercourse or the touching of an

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 16-J-16395

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017-2515, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 7196-9008-9111-1007-5577 at Los Angeles, addressed to: (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: (see below)

| Person Served | Business-Residential Address | Fax Number |
|----------------------|--|--------------------|
| Matthew Scott Pappas | 15781 Brookhurst Street Suite 104 Westminster, CA 92683-7580 | Electronic Address |
| | | |

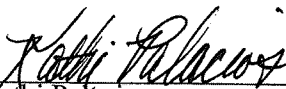
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: August 16, 2017

SIGNED:


Kathi Palacios
Declarant