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*Exempt from filing fees per
Government Code section 6103*

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PEOPLE OF THE STATE OF CALIFORNIA and CITY OF SANTA ANA

9
10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

12 CITY OF SANTA ANA, a charter City and
municipal corporation, and THE PEOPLE OF
13 THE STATE OF CALIFORNIA, by the City
14 Attorney for the City of Santa Ana.

15 Plaintiffs,

17 v.

18
19 ORANGE COUNTY ASSOCIATION FOR
MENTAL HEALTH DBA MENTAL HEALTH
20 ASSOCIATION OF ORANGE COUNTY, a
21 California Nonprofit Corporation; B T
INVESTMENT PROPERTIES, LLC, a California
22 Limited Liability Company; and DOES 1 through
23 25 inclusive,

24 Defendants.

Case No: 30-2020-01124174-CU-MC-CJC
Judge John C. Gastelum

**COMPLAINT FOR INJUNCTION TO
ABATE A PUBLIC NUISANCE;
NUISANCE *PER SE***

[Deemed Verified Pursuant to Code of
Civil Procedure Section 446]

Causes of Action:

**1. Public Nuisance (Civ. Code sections
3479, 3480, 3491, 3494; Code Civ. Proc.
Sections 526, 527, 731; Penal Code Section
370)**

**2. Public Nuisance *Per Se* (Civ. Code
Sections 3479, 3480, 3491, 3494; Code Civ.
Proc. Sections 526, 527, 731; Santa Ana
Municipal Code
Sections 1-8, 1-12, 1-13, and 41-190)**

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26 This action is brought by the PEOPLE OF THE STATE OF CALIFORNIA, ("People")
27 as Plaintiff, by and through SONIA R. CARVALHO, City Attorney for the City of Santa Ana,
28 and CITY OF SANTA ANA, a charter City and municipal corporation ("City"), duly organized

1 and existing under and by virtue of the Constitution and laws of the State of California, as
2 Plaintiff and Real Party In Interest, (collectively, "Plaintiffs"), against ORANGE COUNTY
3 ASSOCIATION FOR MENTAL HEALTH DBA MENTAL HEALTH ASSOCIATION OF
4 ORANGE COUNTY, B T INVESTMENT PROPERTIES, LLC, and Does 1 through 25 (herein
5 collectively referred to as "Defendants") for allowing and maintaining a public nuisance at a
6 facility commonly known as the "Homeless Multi-Service Center" and the parcel(s) on which it
7 sits (herein referred to as the "Property").

8 **I. PARTIES, JURISDICTION, AND VENUE**

9 1. The CITY OF SANTA ANA ("City") is at all times herein mentioned, a Charter
10 City and municipal corporation, duly organized and existing under and by virtue of the
11 Constitution and laws of the State of California and located in the County of Orange.

12 2. The City is authorized, pursuant to California *Code of Civil Procedure* section
13 731, to prosecute this action in the name of and on behalf of the People of the State of
14 California.

15 3. The City is informed and believes, and thereon alleges, that Defendant Orange
16 County Association for Mental Health is a California non-profit corporation doing business as
17 the Mental Health Association of Orange County ("MHA").

18 4. The City is informed and believes, and based upon such information and belief,
19 alleges that, at all relevant times herein, Defendant MHA operates, manages, or maintains the
20 property located at 2416 S. South Main Street, Santa Ana, California, and that all of the actions
21 of Defendants alleged herein have occurred, been carried out, or have furthered the violations of
22 law at or in connection with the operations of a multi-service center by MHA at the Property,
23 which nuisance and violations of law are sought to be restrained by this action.

24 5. Plaintiffs are informed, believe and thereon allege that Defendant MHA's
25 principal office address is 1971 E. 4th Street, Suite 130A, Santa Ana CA 92705.

26 6. The City is informed and believes, and thereon alleges, that Defendant B T
27 Investment Properties, LLC, a California Limited Liability Company ("Property Owner"), has
28 been, at all times material to this action, the owner of the Property, which is commonly known

1 as 2416 South Main Street, Santa Ana, California, identified as Assessor's Parcel Number 410-
2 382-15.

3 7. The Property includes a commercial building in which MHA operates as the
4 "Homeless Multi-Service Center" at the Property. The Property is located in an area surrounded
5 by other commercial businesses and is approximately one block away from Esqueda Elementary
6 School. Delhi Park, Monroe Elementary School, and Cesar Chavez High School are also
7 located less than one mile from the Property. The Property is situated on a major arterial street
8 in the City of Santa Ana, making the actions of MHA clients, such as running into traffic,
9 serious dangers to MHA clients and members of the public traveling in the area.

10 8. The true names and capacities of Defendants sued herein as DOES ONE (1)
11 through TWENTY-FIVE (25) are unknown to Plaintiffs, who therefore sue such Defendants by
12 such fictitious names, and will amend this Complaint to show their true names and capacities at
13 such time as they are ascertained. Plaintiffs are informed and believe and thereon allege that
14 each of the Defendants designated herein as a DOE is legally responsible in some manner for the
15 events and happenings alleged in this Complaint.

16 9. Whenever in this Complaint reference is made to any act of Defendants, such
17 allegation shall be deemed to mean Defendants' officers, agents, manager, representative,
18 employees, and/or DOES 1 through 25, who authorized such acts while actively engaged in the
19 operation, management, direction or control of the affairs of Defendants, at the Defendants'
20 direction and/or while acting within the course and scope of their duties. Reference to
21 Defendants shall also mean each of the Defendants individually, as well as all of the Defendants,
22 collectively.

23 10. Plaintiffs bring this action under California *Civil Code* sections 3479, 3480, and
24 3494, California *Code of Civil Procedure* sections 526, 731, and Section 370 of the California
25 *Penal Code*. Plaintiffs seek to enjoin Defendants from engaging in the conduct alleged in this
26 Complaint and to recover fees, costs and penalties as permitted by law relating to this
27 enforcement action.

28 11. Venue is proper in this judicial district because the Property and the nuisance

1 conduct at issue are located in this judicial district.

2 12. Defendants and each of them are directly responsible for the activities occurring
3 on the Property as set forth below, are responsible for continuing violations of the laws and
4 public policy of the State of California and/or local codes, regulations and/or requirements
5 applicable to Defendants' operation and activities at the Property, and/or have permitted,
6 allowed, caused, or indirectly furthered the activities at the Property alleged herein, and
7 Defendants' use of and activities at the Property, or allowance of such uses and activities, are
8 inimical to the rights and interest of the general public and constitute unlawful business
9 practices, nuisances and/or violation of law.

10 **II. FACTS**

11 13. MHA has been the source of consistent and significant problems, crimes,
12 complaints, and calls for service for the Santa Ana Police Department ("SAPD") for several
13 years, as specified herein, and based upon evidence to be shown at trial.

14 14. During the period beginning May 1, 2017 and ending January 9, 2019, the SAPD
15 received more than two hundred and forty-nine (249) calls for service at the Property involving
16 clients of MHA. These calls for service are related to a wide variety of criminal conduct,
17 including but not limited to:

18 Assault and battery, assault with a deadly weapon, attempted suicide, criminal
19 threats, domestic violence, disorderly conduct, disturbing the peace, indecent
20 exposure, malicious mischief, rape, robbery, theft, trespassing, vandalism, and
21 vehicle burglaries.

22 15. The MHA Homeless Multi-Service Center has considerably more calls for service
23 than the other commercial businesses in the area. As such, SAPD spends a disproportionate
24 amount of time policing, patrolling, and responding to calls at the Homeless Multi-Service
25 Center. When responding to the Property, employees of MHA often refuse SAPD requests for
26 information or assistance.

27 16. Examples of some of the calls, contacts, investigations and arrests SAPD has
28 handled at the Homeless Multi-Service Center are:

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- a. On July 17, 2018, SAPD officers were dispatched to MHA at 2416 S. Main St. in response to a report of a physical assault, a violation of *Penal Code* section 242 (Battery). The officers made contact with the victim at South Coast Global Medical Center, located at 2701 S. Bristol. The victim informed officers that he was standing outside of MHA when a female flagged him down on the east side of Main Street. Upon making contact with the female, the victim stated that a male suspect approached him and punched him above his left cheek with a set of brass knuckles. The victim stated that the suspect had approached him because he was talking to suspect's girlfriend.
- b. On July 26, 2018, SAPD officers were dispatched to MHA at 2416 S. Main St. in response to a report of theft, a violation of *Penal Code* section 488. Upon contact with officers, the victim, an MHA client, stated that his phone was stolen while it was charging behind the employee counter. MHA's Assistant Coordinator informed officers that she had reviewed the video footage and was aware of who stole the victim's cell phone, but refused the officer's request to review the video and stated that she was not allowed to provide the suspect's information.
- c. On December 7, 2018, SAPD officers were dispatched to MHA at 2416 S. Main St. in response to a report of a man "yelling" in the middle of the street. Officers contacted an MHA employee who stated that the man entered MHA and caused a disturbance. The MHA employee stated that the man wanted to kill himself and needed the police. The man was later witnessed running into traffic. The man was placed on an involuntary hold pursuant to *Welfare and Institutions* section 5150.
- d. On January 21, 2019, SAPD officers were dispatched to MHA at 2416 S. Main St. in response to a physical assault, a violation of *Penal Code* section 242. Upon contact with officers, the victim stated that she was involved in a

1 verbal altercation with suspect while eating her food at MHA. The victim
2 stated that she was upset because suspect was brushing her teeth while
3 everyone was eating. The suspect became upset at victim's comments and
4 punched victim on the head and fled the building. MHA employees stated
5 that they did not have access to the security camera footage. Officers were
6 unable to locate suspect.

7 e. On January 28, 2019, SAPD officers were dispatched to MHA at 2416 S.
8 Main St. in response to a physical assault, a violation of *Penal Code* section
9 242. Upon contact with officers, witnesses stated that they saw victim and
10 suspect engage in a verbal altercation. Witnesses saw the suspect turn
11 around and strike victim in the head three to six times near the entrance of
12 MHA.

13 f. On March 4, 2019, SAPD officers were dispatched to MHA at 2416 S.
14 Main St. in response to a report of an assault with a deadly weapon, a
15 violation of *Penal Code* section 245(a)(1). Officers came into contact with
16 the victim, an MHA member, who stated that on February 26, 2019, a male
17 member of MHA had hit him with a heavy lock that was placed inside a
18 sock on the south parking lot of MHA. The suspect attempted to hit the
19 victim several times by swinging the "lock in a sock." The victim further
20 stated that the suspect had kicked him on his knee inside MHA
21 approximately two days earlier. The victim stated that MHA's Program
22 Director yelled at the suspect to stop hitting him. The MHA Program
23 Director stayed with the victim until the suspect left the scene. When
24 officers attempted to retrieve the name of the suspect from MHA's Program
25 Director, she refused to provide the suspects full name and did not allow
26 officers to review the video footage of the incident citing Health Insurance
27 Portability and Accountability Act (HIPAA).

28 g. On March 5, 2019, SAPD officers were dispatched to MHA at 2416 S.

1 Main St. in response to a subject making criminal threats, a violation of
2 *Penal Code* section 422 (Threaten Crime with Intent to Terrorize). Upon
3 contact with officers, the victim stated that he was fixing his bicycle in the
4 rear parking lot of MHA when the suspect called the victim to the front of
5 MHA and said, "I'll show you my gun I'll kill you." The victim feared for
6 his life. When officers contacted MHA's Program Director, she advised that
7 prior to the incident, the suspect had entered MHA and caused a
8 disturbance.

9 h. On April 15, 2019, SAPD officers were dispatched to MHA at 2416 S.
10 Main St. in response to a report of an assault, a violation of *Penal Code*
11 sections 240 (Assault on Person) & 242 (Battery). Upon contact with
12 officers, the victim, an MHA security guard, stated that that the suspect
13 attempted to walk onto the MHA property, but he denied her entry. Suspect
14 had been previously removed due to violent outbursts toward clients and
15 staff. Victim stated that he feared the suspect was going to physically attack
16 a MHA client sitting near the south door of MHA and stepped in between
17 them. Victim stated that suspect began yelling profanities, struck him with a
18 closed fist on the jaw and bit his bicep as he was attempting to restrain her.

19 i. On April 17, 2019, SAPD officers were dispatched to MHA at 2416 S.
20 Main St. in response to a report of theft and vandalism, a violation of *Penal*
21 *Code* section 488 (Petty Theft) & 594(b)(1) (Vandalism[\$400 or More]).
22 Upon contact with officers, the reporting party, MHA's Assistant
23 Coordinator, stated that the male suspect used a rock to break an exterior
24 window at MHA's thrift store and stole a purse that was on display. The
25 reporting party stated that MHA operates a thrift store at the Property and
26 has had three encounters per week with suspect since March 1, 2019.

27 j. On May 2, 2019, SAPD officers were dispatched to MHA at 2416 S. Main
28 St. in response to a report of a criminal threat, a violation of *Penal Code*

1 section 422 (Threaten Crime with Intent to Terrorize). The victim, an MHA
2 security guard, stated that the suspect walked into the parking lot of MHA
3 and was asked to leave due to suspect's prior incidents at the MHA
4 property. The suspect refused and pointed a knife at the victim and told him
5 she was going to kill him. The suspect was only five feet away from victim
6 when this occurred. When officers arrived at the scene, suspect was sitting
7 across the street from MHA at 2509 S. Main St. and was arrested.

8 k. On May 4, 2019, SAPD officers were dispatched to the 2300 block of South
9 Evergreen Street, less than one mile from MHA, in response to a report of
10 indecent exposure, a violation of *Penal Code* section 314.1. Upon contact
11 with officers, the victim stated that she walked out of her residence to do
12 laundry when she noticed the suspect in the corner of her backyard facing a
13 concrete wall. When the victim asked the suspect what he was doing, the
14 suspect turned around with his "penis" outside of his pants. The suspected
15 stated that he was urinating, but the victim suspects he was masturbating.
16 The victim stated that she was offended and feared for her children. The
17 suspect's address was listed as: MHA 2416 S. Main St.

18 l. On May 25, 2019, SAPD officers were dispatched to MHA at 2416 S. Main
19 St. in response to a violation of *Penal Code* section 488 (Petty Theft). Upon
20 contact with officers, the victim stated that he witnessed the suspect fixing
21 her bicycle at the southwest corner parking lot of MHA and offered his
22 assistance. Victim stated that he told suspect that he needed to go inside
23 MHA and the suspect agreed to watch his bike until he returned. When
24 Victim returned, the suspect had stolen his bike. MHA staff allowed the
25 officer to review the video footage, but did not provide a copy. Suspect was
26 not located.

27 m. On July 29, 2019, SAPD officers were dispatched to MHA at 2416 S. Main
28 St. in response to an assault, a violation of *Penal Code* section 245(a)(1)

1 (Assault with a Deadly Weapon). Upon contact with officers, the victim, a
2 volunteer, stated that he was in the rear parking lot of MHA feeding the cats
3 and cleaning the parking lot when the suspect punched him in the mouth.
4 The suspect told the victim to "leave my stuff alone." Victim stated that the
5 suspect picked up a metal pole and attempted to hit him in the head. Victim
6 was able to block the pole with his left hand suffering pain and bruising.
7 The suspect fled when the victim threatened to call police. Suspect was not
8 apprehended.

9 n. On August 4, 2019, SAPD officers were dispatched to MHA at 2416 S.
10 Main St. in response to a report of a theft, a violation of *Penal Code* section
11 488. Upon contact with officers, the victim stated that he was inside MHA
12 when the suspect approached him, gave him a hug, and grabbed his car
13 keys. The suspect told the victim "I got your keys" and fled from MHA.
14 Officers made contact with the suspect across the street from MHA where
15 she was found lying in the bushes. Suspect was cited and released.

16 o. On August 9, 2019, officers were dispatched to a 7- Eleven market located
17 at 2910 South Main Street, less than a half mile from MHA, in Santa Ana in
18 response to a report of *Penal Code* section 245(a)(1), Assault with a Deadly
19 Weapon. The victim, an employee working at the market, stated that he told
20 the suspect to leave the store because of prior thefts. Victim stated that he
21 pushed the suspect as he was exiting the store. The suspect later returned
22 with two heavy metal pipes and struck the victim in the head. The suspect's
23 address was listed as: MHA 2416 S. Main St.

24 p. On August 11, 2019, officers were dispatched to MHA at 2416 S. Main St.
25 in response to a report of an assault, a violation of *Penal Code* sections 240
26 (Assault on Person) & 242 (Battery). Upon contact with officers, the victim,
27 an MHA security guard, stated that the suspect, who had been receiving
28 services from MHA, refused to become an MHA member. As a result, the

1 suspect was previously told to leave the facility. Victim stated that he
2 encountered suspect sitting in the parking lot and asked her to leave the
3 MHA property, but refused. When suspect finally left the property the
4 victim followed from a distance. At that time, the victim stated the suspect
5 attempted to hit victim with her shirt, and he had to move to avoid getting
6 hit. The suspect also attempted to hit a second victim from MHA with her
7 hand and "flicked" a cigarette at his face. When approached by SAPD
8 officers at the McDonalds/CVS parking lot, approximately 200 feet from
9 MHA, the suspect spit at one of the officers. Suspect told the victims that
10 the CVS belonged to her. Suspect was arrested.

11 q. On August 14, 2019, officers were dispatched to MHA at 2416 S. Main St.
12 in response to a report of criminal threats. Upon contact with officers, the
13 victim, a MHA Case Manager, stated that she intervened in an incident
14 where suspect was "yelling" at a MHA client, a disabled veteran. Victim
15 stated that she feared the suspect would physically harm the MHA client.
16 When the victim asked the suspect to vacate the premises he threatened to
17 "fuck her up" and "fuck you in the ass." Suspect also pulled his left fist
18 threatening to strike victim, but did not. The suspect eventually exited the
19 building. The victim stated that it is upsetting that the MHA security guard
20 "never did his job," and that she had to do his job. Suspect was not at the
21 scene when officers arrived.

22 r. On October 17, 2019, SAPD officers were dispatched to MHA at 2416 S.
23 Main St. in response to person running out in traffic, a violation of *Penal*
24 *Code* section 647(f), Disorderly Conduct. When officers arrived at the
25 scene, they witnessed the suspect "wandering" the street "confused, in a
26 panic, and hallucinating." Officer stated that based on his experience he
27 believed the suspect was under the influence of narcotics. When officers
28 attempted to take suspect into custody, the officer stated that the suspect

1 screamed and struggled violently. An officer contacted an MHA employee,
2 and she admitted that the suspect was a regular client of MHA.

3 s. On November 17, 2019, SAPD officers were dispatched to MHA at 2416 S.
4 Main St. in response to a report of a physical assault, a violation of *Penal*
5 *Code* section 242. Upon contact with officers, the victim was located at the
6 southwest corner of Warner and Main Street. The victim stated that he was
7 inside the MHA facility (common area) when he heard the suspect being
8 aggressive towards other MHA clients. Victim stated that he told the
9 suspect to "take a shower to cool down." Victim stated that suspect became
10 upset and punched him on the lower lip. An employee for MHA witnessed
11 the incident. Suspect was arrested.

12 17. Additionally, the MHA facility has also placed a tremendous burden on the City's
13 emergency services provided by the Orange County Fire Authority ("OCFA"). The City is
14 informed and believes that OCFA has received approximately 73 calls for service at the MHA
15 Property during the period beginning June 1, 2018 and ending January 7, 2020.

16 18. The City of Santa Ana has limited police and emergency resources. Those limited
17 resources have been inordinately taxed by the nuisance conditions at the MHA facility.

18 *Community Complaints and the "Good Neighbor Policy"*

19 19. In addition to SAPD calls for service, the nuisance operations of the MHA
20 Homeless Multi-Service Center have extended to nearby businesses and neighborhoods.

21 20. The City receives complaints on a daily basis from residents and business owners
22 regarding the nuisance conditions resulting from MHA operations.

23 21. Plaintiffs are informed that Defendant MHA, in response to extensive complaints
24 from the surrounding community, established a so-called "Good Neighbor Policy" that outlined
25 several guidelines for operation of the facility. These guidelines include: cooperation with
26 SAPD and Santa Ana School Police, installation of security cameras on the MHA building,
27 holding regular meetings with the surrounding community and business owners, providing on-
28 site security guards, and creation of an Advisory Committee to meet quarterly.

1 police presence is grossly out of line with the community standards and expectations. This
2 nuisance affects the entire community. These conditions spill over into the surrounding
3 businesses and neighborhoods, greatly affecting the quality of life of all affected.

4 28. Defendants' operation and maintenance of the Property in the condition described
5 and summarized above, and as shown by evidence, is a continuing public nuisance, pursuant to
6 *Civil Code* sections 3479 and 3480. The maintenance and operation of the Property in such
7 continuous manner is injurious to the public's health, safety and welfare; offensive to the senses,
8 and obstructs the free use of the properties in the neighborhood.

9 29. At the time of trial, Plaintiffs will move the Court to amend this Complaint to
10 include any conditions discovered or occurring after filing this Complaint.

11 30. Unless restrained by this Court's issuance of injunctive relief as requested herein,
12 Defendants will continue to maintain said public nuisance in violation of law.

13 31. Defendants' wrongful conduct alleged herein, and/or shown by evidence,
14 constitutes a serious threat to the general health, safety, and welfare of the City of Santa Ana and
15 its residents and, in particular, the residents and business surrounding the Property, and their
16 peaceable and safe enjoyment of their respective properties.

17 32. Plaintiffs have no plain, adequate, or speedy remedy at law in that the level and
18 frequency of illegal activities is of such a magnitude as to create an immediate, permanent, and
19 perpetual risk of the health and welfare of the public and of residents of the neighborhood
20 surrounding the Property and the whole of the community of the City of Santa Ana; and
21 Defendants have demonstrated a clear unwillingness and/or inability to manage and/or inability
22 to manage and/or operate the business or the Property in a manner that is compliant with the law
23 and/or which is not injurious to the public health, welfare and safety. Instead, Defendants have
24 engaged in, furthered, contributed to, fostered, encouraged, conspired to do the same, or have
25 otherwise allowed, permitted or participated in such harmful, dangerous and unlawful activities
26 and operations to continue at the Property.

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1 public nuisance subject to abatement by civil action under applicable law including, but not
2 limited to, *Civil Code* sections 3479, 3480, 3491 and 3494.

3 43. The City has no plain, speedy, or adequate remedy at law, and injunctive relief is
4 necessary and authorized in *Code of Civil Procedure* sections 526, 527 and 731.

5 44. The Court is expressly authorized under *Code of Civil Procedure* section 731 to
6 fashion injunctive relief to abate the public nuisances that exist on the Property.

7 45. Unless preliminarily and permanently enjoined by this Court, Defendants will
8 continue to maintain the public nuisance and prevent the City from effectively enforcing its
9 laws.

10 **PRAYER**

11 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
12 follows:

13 1. That the Property and the conditions existing thereon be declared a violation of
14 the SAMC.

15 2. That the Property and the conditions existing thereon be declared a public
16 nuisance.

17 3. That the Property and the conditions existing thereon be declared a public
18 nuisance and a violation of the *California Civil Code* sections 3479 and 3480.

19 4. That Defendants, and each of them, their agents, officers, employees, and anyone
20 acting on their behalf, and their heirs and assignees, be temporarily, preliminarily, and/or
21 permanently enjoined from operating, conducting, using, occupying, or in any way permitting
22 the use of the property and structures as a public nuisance, pursuant to the SAMC, as well as
23 Sections 3479 and 3480 of the *California Civil Code*, and sections 526, 527 and 731 of the
24 *California Code of Civil Procedure*.

25 5. That Defendants be restrained and enjoined from transferring ownership of the
26 Property and structures unless there is compliance with all applicable orders of this Court and
27 requests by the City, and the Court and City have approved of such.

28 6. An order, indicating that Defendants, and each of them, shall be held personally

1 liable and shall compensate the City for its investigative and enforcement costs and costs of suit
2 incurred herein, including reasonable attorneys' fees.

3 7. That Plaintiffs are entitled to such other relief as the Court deems proper,
4 necessary or just.

5 SONIA R. CARVALHO
6 City Attorney
7 City of Santa Ana

8 Dated: January 13, 2020

9 By: Jose Montoya
10 JOSE MONTOYA
11 Deputy City Attorney
12 Attorney for Defendant
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