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PEOPLE OF THE STATE OF CALIFORNIA

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13 UNLIMITED JURISDICTION

14 PEOPLE OF THE STATE OF
CALIFORNIA, by and through Dennis J.
Herrera, City Attorney for the City and
15 County of San Francisco,

16 Plaintiff,

17 vs.

18
19 NORTEÑO, a criminal street gang sued as
20 an unincorporated association, and DOE
ONE through DOE FIVE HUNDRED,
21 inclusive,

22 Defendants.
23

Case No. CGC 07-464492

~~[PROPOSED]~~

ORDER TO SHOW CAUSE RE:
PRELIMINARY GANG INJUNCTION

Hearing Date: July 12, 2007
Hearing Judge: Hon. Patrick Mahoney
Time: 11:00 am.
Place: Dept. 302

Date Action Filed: June 21, 2007
Trial Date:

24 On reading the Complaint of Plaintiffs on file in the above-entitled action and the
25 Memorandum of Points and Authorities and Declarations submitted therewith, it appears to the
26 satisfaction of this Court that this is a proper case for granting an Order to Show Cause re:
27 Preliminary Injunction.
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ENDORSED
FILED
San Francisco County Superior Court
JUL 12 2007
GORDON PARK-LI, Clerk
BY: _____ Deputy Clerk

1 **IT IS ORDERED** that the above-named Defendant appear in Department 302 of this Court,
2 located at 400 McAllister Street, San Francisco, California, on September 18, 2007 at 9:30 a.m.,
3 then and there to show cause, if any it has, why it and its associates, affiliates and recruits, and all
4 persons acting in concert with or participating with it or acting on its behalf, should not be enjoined
5 and restrained by Order of this Court during the pendency of this action from engaging in or
6 performing, directly or indirectly, any of the following activities within the Proposed Safety Zone
7 (see Exhibit A to Plaintiff's Memorandum of Points and Authorities), defined as an "L" shaped area
8 generally bordered by 23rd Street to the North (but extending to 21st Street at Alabama Street),
9 Valencia to the West, Cesar Chavez to the South, Potrero Avenue to the East, and extending to
10 encompass La Raza Park, also known as Potrero Del Sol Park:

11 a. INTIMIDATION. Confronting, intimidating, annoying, harassing, threatening,
12 challenging, provoking, assaulting, or battering any person;

13 b. GUNS OR DANGEROUS WEAPONS. (1) Possessing any gun, firearm,
14 ammunition, or illegal weapon as defined in Penal Code Section 12020, (2) knowingly
15 remaining in the presence of anyone who is in possession of such gun, firearm, ammunition
16 or illegal weapon, or (3) knowingly remaining in the presence of such gun, firearm,
17 ammunition, or illegal weapon;

18 c. GRAFFITI or GRAFFITI TOOLS. Damaging, defacing, or marking any public
19 or private property of another, or possessing spray paint cans, felt tip marker, or other
20 graffiti tools as defined in Penal Code Section 594.2;

21 d. DRUGS AND CONTROLLED SUBSTANCES. (1) Selling, possessing,
22 manufacturing or using any controlled substance or related paraphernalia, as defined in
23 Health and Safety Code Section 11364, including, but not limited to, rolling papers, smoking
24 pipes of any kind, crack vials, and syringes, (2) knowingly remaining in the presence of
25 anyone selling, possessing, or using any controlled substance or related paraphernalia, (3)
26 knowingly remaining in the presence of any controlled substance or such related
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1 paraphernalia, (4) driving under the influence of any controlled substance, or (5) being under
2 the influence of drugs in public;

3 e. ALCOHOL. Using, consuming, possessing or purchasing alcoholic beverages
4 unlawfully including but not limited to public intoxication, driving under the influence of
5 alcohol, drinking alcoholic beverages in public, and possession of an open container of
6 alcohol.

7 f. TRESPASSING. Being present on any private property, including San Francisco
8 Housing Authority property, except (1) with the prior, written consent of the owner or the
9 owner's agent, or (2) in the physical presence of the owner or owner's agent, or person in
10 lawful possession of the property;

11 g. FLASHING GANG SIGNS, RED GARMENTS, GANG SYMBOLS. Flashing
12 gang signs or wearing red garments, or showing any gang symbols, including "14," "Norte,"
13 or "XIV;"

14 h. ASSOCIATION. Standing, sitting, walking, driving, gathering, or appearing
15 anywhere in the public view or any place accessible by or to the public, with any known
16 member of the NORTEÑO Criminal Street Gang, excluding: 1) when all individuals are
17 inside a school in class or on school business; and 2) when all individuals are inside a
18 church. This prohibition against associating with other NORTEÑO gang members applies
19 to all travel to or from school or church, and to any congregating before school or church or
20 after school or church.

21 i. LOITERING. Loitering in a public place in a manner and under circumstances
22 manifesting the purpose and with the intent to commit an offense specified in Chapter 6 of
23 the Health and Safety Code, commencing with Section 11400, in accordance with Health
24 and Safety Code Section 11532(b);

25 j. CURFEW. Being outside on the public street or sidewalk between the hours of
26 10:00 pm on any day and sunrise the following day, unless 1) immediately going to or
27 immediately returning from a legitimate religious event or medical appointment, 2) actively
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1 engaged in a legitimate business, trade, professions, or occupation which requires your
2 presence during curfew hours, or 3) involved in a legitimate emergency situation that
3 requires immediate attention;

4 k. GANG RECRUITMENT. Taking any action to recruit gang members for
5 Defendant NORTEÑO Criminal Street Gang, or make any threats or promises to shoot, stab,
6 strike, hit, batter, injure, assault, disturb the peace, or destroy the personal property of
7 anyone, as an incentive to join Defendant gang; and

8 l. STOPPING MEMBERS FROM LEAVING. Taking any action to stop a gang
9 member from leaving Defendant NORTEÑO Criminal Street Gang, or make any threats or
10 promises to shoot, stab, strike, hit, batter, injure, assault, disturb the peace or destroy the
11 personal property of anyone, as an incentive not to leave Defendant gang.

12 m. VIOLATING OTHER LAWS. Violating any federal, state or local law that (1)
13 prohibits violence and threatened violence including murder, rape, robbery by force or fear,
14 assault and battery, (2) prohibits interference with the property rights of others including
15 trespass, theft, driving or taking a vehicle without the owner's consent, and vandalism, or (3)
16 prohibits the commission of acts which create a nuisance including the illegal sale of
17 controlled substances, loitering with the intent to commit a narcotics-related offense, and
18 blocking the sidewalk.

19 **IT IS FURTHER ORDERED** that:

20 a. Due to the fact that Plaintiff has been unable to find a published address or phone
21 number for Defendant NORTEÑO, service shall be conducted as follows:

22 i. Plaintiff shall endeavor to personally serve this Order to Show Cause and all
23 moving papers on as many members of Defendant NORTEÑO as possible,
24 but shall personally serve at least **five** of the members designated for service
25 (see Exhibit C to Plaintiff's Memorandum of Points and Authorities) and as
26 authorized by California Code of Civil Procedure § 416.40 (c) and
27 Corporations Code § 18220; and
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- 1 ii. Plaintiff shall publish a notice in the San Francisco Chronicle and the
2 Examiner once a week for four consecutive weeks, notifying Defendant of
3 the date of the hearing on the Order to Show Cause, a summary of the relief
4 requested, a web address for the City Attorney's Office, and a telephone
5 number to the City Attorney's Office where Defendant can call to arrange to
6 get copies of the moving papers. A copy of the notice to be published in the
7 newspaper is attached hereto as Exhibit A; and
- 8 iii. Plaintiff shall post Notice of the Hearing on the Order to Show Cause in an
9 area and manner consistent with the method used for notification of this ex
10 parte hearing. A copy of the Notice along with a map of the area to be posted
11 is attached hereto as Exhibit B; and
- 12 iv. Upon the completion of the above items within the time frames outlined
13 below, service shall be deemed complete.

14 **IT IS FURTHER ORDERED** that:

- 15 a. Plaintiffs must complete personal service of this Order to Show Cause and all
16 moving papers on at least five designated members by August 17, 2007. Proofs of Service must be
17 delivered to the Court on the day of the Hearing on the Order to Show Cause re: Preliminary
18 Injunction.
- 19 b. Plaintiffs must complete the four consecutive weeks of publication of notice of the
20 Hearing on the Order to Show Cause in the San Francisco Chronicle and the Examiner by August
21 17, 2007.
- 22 c. Plaintiffs must post Notice of the Hearing on the OSC by July 20, 2007.
- 23 d. The parties shall then adhere to the following briefing schedule:
- 24 i. Opposition Brief must be filed and personally served on the Office of the
25 City Attorney by close of business on September 5, 2007.
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- 1 ii. Reply Brief, if any, must be filed by close of business September 11, 2007.
2 The Reply Brief shall be personally served upon any party filing an
3 Opposition Brief.
4 iii. Hearing on the OSC to be held at 9:30 am. on September 18, 2007.

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7 DATED:

JUL 12 2007

PATRICK J. MAHONEY

PATRICK J. MAHONEY
JUDGE OF THE SUPERIOR COURT

TO: **THE NORTEÑO CRIMINAL STREET GANG,**
and all of its members, affiliates, associates, and recruits:

RE: **NOTICE OF EX PARTE APPLICATION FOR
AN ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION
THURSDAY, SEPTEMBER 18, 2007, 9:30 A.M.
SAN FRANCISCO SUPERIOR COURT, 400 McAllister Street, San Francisco
DEPARTMENT 302**

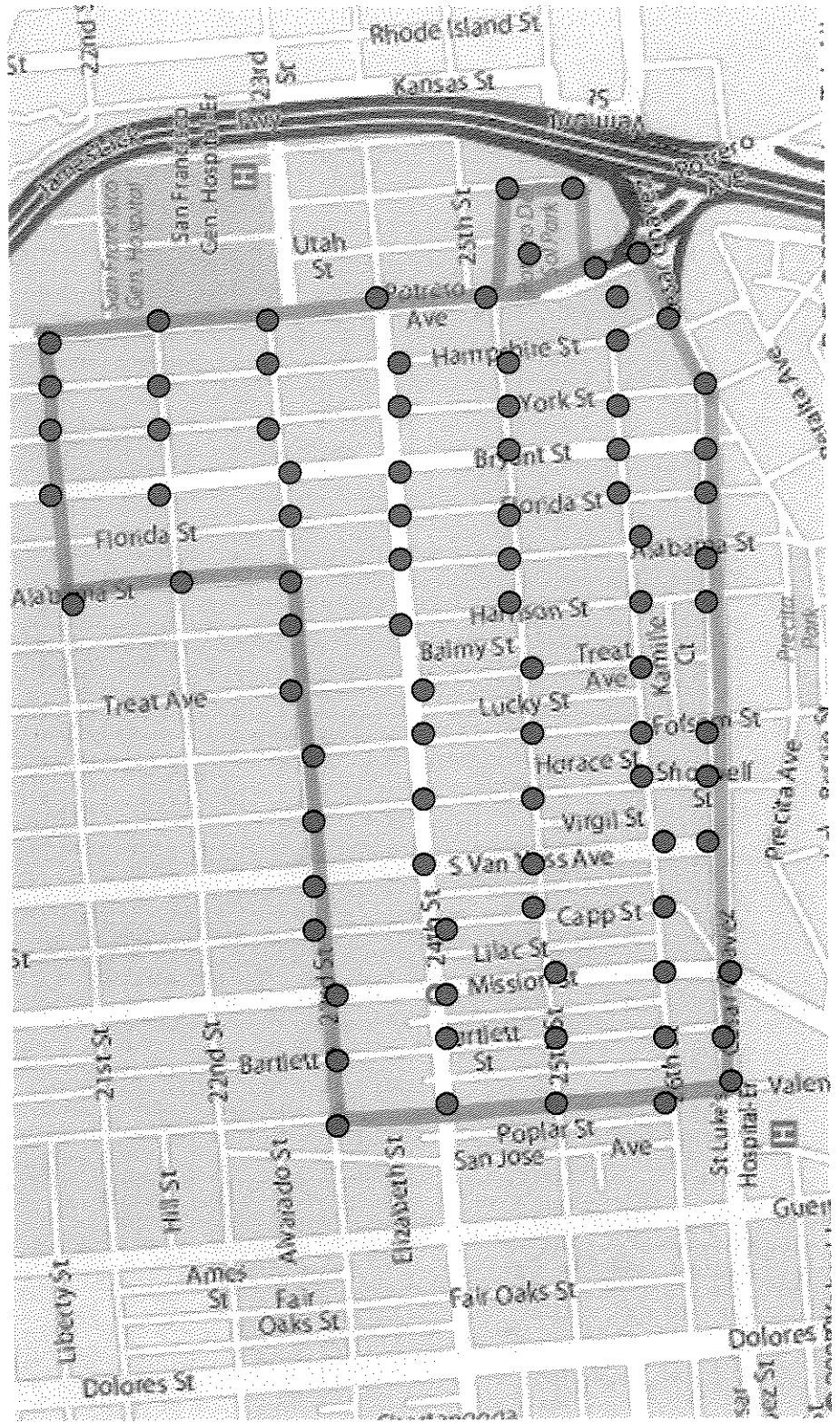
YOU ARE HEREBY NOTIFIED THAT THE PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City Attorney for the City and County of San Francisco, will appear on the above-referenced date and time in the above-referenced department, to request an Order to Show Cause why a preliminary injunction should not issue to prohibit you from continuing to create, maintain or contribute to a public nuisance within the designated "Safety Zone," which is an "L" shaped area and includes 23rd Street to the North (but extending to 21st Street at Alabama Street), Cesar Chavez to the South, Valencia Street to the West, and Potrero Avenue to the East, and including La Raza Park, also known as Potrero Del Sol Park, in the City and County of San Francisco.

The request for the Preliminary Injunction is made on the grounds that the conduct of the NORTEÑO criminal street gang in the proposed Safety Zone amounts to a public nuisance, and the request is supported by all appropriate legal authority as is cited in the moving papers, and any further evidence and argument as might properly come before the Court.

If you intend to appear at the SEPTEMBER 18, 2007 hearing to oppose the issuance of a preliminary injunction, the opposition papers must be filed and personally served no later than SEPTEMBER 4, 2007. Copies of the People's moving papers may be obtained by contacting the Office of the City Attorney at (415) 554-3800.

For more information, please contact the City Attorney's Office at (415) 554-3800 or at www.sfgov.org/site/cityattorney.

**MAP FOR POSTING OF
EX PARTE NOTIFICATION
FOR SEPTEMBER 18, 2007 HEARING**





DENNIS J. HERRERA
City Attorney

**OFFICIAL CITY NOTICE
DO NOT REMOVE**

TO: **THE NORTEÑO CRIMINAL STREET GANG,**
and all of its members, affiliates, associates, and recruits:

RE: **NOTICE OF EX PARTE APPLICATION FOR
AN ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION
THURSDAY, SEPTEMBER 18, 2007, 9:30 A.M.
SAN FRANCISCO SUPERIOR COURT, 400 McAllister Street, San Francisco
DEPARTMENT 302**

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