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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

13 PEOPLE OF THE STATE OF CALIFORNIA,
14 by and through DENNIS J. HERRERA, City
Attorney for the CITY AND COUNTY OF
15 SAN FRANCISCO,

16 Plaintiff,

17 vs.

18 CHOPPER CITY, a criminal street gang, sued
as an unincorporated association; EDDY
19 ROCK, a criminal street gang, sued as an
unincorporated association; KNOCK OUT
20 POSSE, a criminal street gang, sued as an
unincorporated association; and DOES 1
21 through 500,

22 Defendants.

Case No. CGC-07-464493

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFF'S
MOTION TO MODIFY PERMANENT
INJUNCTION RELATED TO CHOPPER CITY,
EDDY ROCK, AND KNOCK OUT POSSE
(California Civil Code §3424, California Code of
Civil Procedure §533)

Hearing Date: June 7, 2018
Hearing Judge: Hon. Harold Kahn
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: June 21, 2007
Trial Date: N/A

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25 INTRODUCTION

26 Plaintiff People of the State of California seek to modify the Permanent Injunction issued by
27 the San Francisco Superior Court on December 18, 2007 against Defendants Chopper City, Eddy
28 Rock, and Knock Out Posse criminal street gangs. This Permanent Injunction is currently enforceable

1 against Defendants Chopper City, Eddy Rock, and Knock Out Posse and forty-two named non-party
2 individuals that this Court previously found to be active gang members. Plaintiff seeks a court order
3 modifying the Permanent Injunction to remove Defendant Knock Out Posse as it no longer constitutes
4 a criminal street gang as defined by California Penal Code section 186.22. Plaintiff also seeks to
5 remove thirty-four gang members currently bound by the Permanent Injunction because they no longer
6 contribute to the nuisance in the safety zones caused by Defendants Chopper City and Eddy Rock
7 Criminal Street Gangs.

8 **BACKGROUND & PROCEDURAL HISTORY**

9 On June 21, 2007, Plaintiff filed a Complaint for Injunctive Relief against Defendants Chopper
10 City, Eddy Rock, and Knock Out Posse Criminal Street Gangs. (“Declaration of Jennifer E. Choi ISO
11 Plaintiff’s Motion to Modify Permanent Injunction Related to Chopper City, Eddy Rock and Knock
12 Out Posse” (“Choi Decl.”), ¶ 3 (filed concurrently with this Motion).)

13 On July 11, 2007, Plaintiff filed a motion seeking a preliminary injunction against Defendants.
14 (Choi Decl., ¶ 4.) This motion included two declarations from gang experts and one hundred and
15 sixteen declarations of San Francisco Police Department Officers documenting the nuisance caused by
16 Defendants and forty-two of Defendants’ most active gang members. (Id., at ¶ 4.)

17 On October 18, 2007, following a hearing, the Court signed an Order granting a Preliminary
18 Injunction against Defendants Chopper City, Eddy Rock and Knock Out Posse Criminal Street Gangs
19 and forty-two non-party members of the three gangs, enjoining them from certain enumerated
20 activities within two San Francisco neighborhoods (“Safety Zones”). (Choi Decl., ¶ 5.)

21 Defendants failed to respond to Plaintiff’s Summons and Complaint. (Choi Decl., ¶ 6) On
22 November 5, 2007, the Clerk of the Superior Court entered Default against Defendants Chopper City,
23 Eddy Rock, and Knock Out Posse Criminal Street Gangs. (Id., at ¶ 6.)

24 On December 18, 2007, the Court issued a “Judgment Granting Permanent Injunction” against
25 Defendants (“Permanent Injunction”). (Choi Decl., ¶ 7, Exh. A.) The Court found by clear and
26 convincing evidence that: (1) Defendants Chopper City, Eddy Rock, and Knock Out Posse Criminal
27 Street Gangs are criminal street gangs as defined by California Penal Code § 186.22 and *People v.*
28 *Englebrecht* (2001) 88 Cal.App.4th 1236, 1258; (2) a public nuisance exists in the two Safety Zones;

1 and (3) the conduct and activities of Defendants Chopper City, Eddy Rock, and Knock Out Posse
2 Criminal Street Gangs and their members caused the public nuisance in the two Safety Zones. (*Id.*, at
3 ¶ 8, Exh. A.) In the Permanent Injunction, the Court permanently enjoined Defendants Chopper City,
4 Eddy Rock, and Knock Out Posse Criminal Street Gangs and forty-two individual members of the
5 three gangs from engaging in certain enumerated activities within the two Safety Zones. (*Id.*, at ¶ 9,
6 Exh. A.)

7 The names of the forty-two non-party gang members were listed in a “List of Gang Members
8 for Service and Enforcement of Permanent Injunction” (“Enforcement List”) attached as Exhibit B to
9 the Permanent Injunction. (Choi Decl., ¶ 9, Exh. A.)

10 On April 19, 2018, this Court issued an Order providing instructions on how Plaintiff’s Motion
11 for Modification should be served on Defendants. (Choi Decl., ¶ 10, Exh. B.)

12 **THE PERMANENT INJUNCTION SHOULD BE MODIFIED TO REMOVE DEFENDANT**
13 **KNOCK OUT POSSE AND THIRTY-FOUR GANG MEMBERS**

14 Upon notice and motion, this Court may modify a final injunction upon a showing that there
15 has been a material change in the facts upon which the injunction was granted, the law upon which the
16 injunction was granted has changed, or “the ends of justice would be served.” (Cal. Civ. Code §
17 3424(a); Cal. Code Civ. Proc. § 533; *Sontag Stores Co. v. Superior Court* (1941) 18 Cal.2d 92, 94-95
18 [finding that a preventive injunction is continuing in nature and is always subject to modification upon
19 proper showing].) Subsection C of the Permanent Injunction also authorizes any party to move to
20 modify the Permanent Injunction upon proper notice and motion. (Choi Decl., Exh. A.)

21 Plaintiff seeks to modify the Permanent Injunction to reflect changes in membership in the
22 enjoined gangs over the years because, “membership evolves over time.” (“Expert Declaration of San
23 Francisco Police Department Sergeant Damon Jackson ISO Plaintiff’s Motion to Modify Permanent
24 Injunction Related to Chopper City, Eddy Rock and Knock Out Posse” (“Jackson Decl.”), ¶¶ 15, 29
25 (filed concurrently with this Motion).) Courts have recognized that, “. . . membership [in gangs] is
26 continually changing. New members are joining the gang, while old members are leaving or
27 becoming inactive.” (*People ex rel Gregory D. Totnine v. Colonia Chiques* (2007) 156 Cal.App.4th
28 31, 41.)

1 Specifically, Plaintiff seeks to remove Defendant Knock Out Posse from the Permanent
2 Injunction as it no longer meets the definition of a criminal street gang under California Penal Code
3 section 186.22(f).¹ (Jackson Decl., ¶¶ 1-37.) Plaintiff, therefore, requests that this Court remove
4 Defendant Knock Out Posse from the Permanent Injunction in the interests of justice.

5 Plaintiff also seeks to remove thirty-four individuals from the Enforcement List of the
6 Permanent Injunction because they no longer actively contribute to the nuisance in the Safety Zones.
7 (Jackson Decl., ¶¶1-50.)²

8 The names of the thirty-four individuals Plaintiffs seeks to remove and each individual's
9 previously found gang affiliations are as follows:

10 Chopper City Criminal Street Gang

- 11 • Dennis Anderson
- 12 • Deon Anderson
- 13 • Byron Cheeves
- 14 • Clarence Cook
- 15 • Jamal Gaines
- 16 • Ricky Rounds
- 17 • Carnell Taylor

18 Eddy Rock Criminal Street Gang

- 19 • Andre Bernard
- 20 • Deshawn Campbell
- 21 • Maurice Carter
- 22 • Raymond Davis

24 ¹ Penal Code Section 186.22(f) defines a criminal street gang as, "any ongoing organization,
25 association, or group of three or more persons, whether formal or informal, having as one of its
26 primary activities the commission of of one or more of the criminal acts enumerated in paragraphs (1)
to (25) . . . having a common name or common identifying sign or symbol, and whose members
individually or collectively engage in, or have engaged in, a pattern of criminal gang activity."

27 ² Four of the thirty-four individuals are deceased. They are Deon Anderson, Jamal Gaines,
28 Jelvon Helton, and Leslie Howard. ("Request for Judicial Notice ISO of Plaintiff's Motion to Modify
Permanent Injunction Related to Chopper City, Eddy Rock and Knock Out Posse" ("RJN"), Exhs. A-
D (filed concurrently with this Motion).)

- 1 • Robert Harvey
- 2 • Leslie Howard
- 3 • Dontaye Hubbard
- 4 • Kethan Hubbard
- 5 • Steve Johnson
- 6 • Dion Martin
- 7 • Paris Moffett
- 8 • Delshawnte Smith
- 9 • Demetrius Smith
- 10 • Jonathan Smith
- 11 • Hannibal Thompson

12 Knock Out Posse Criminal Street Gang

- 13 • Juan Allen
- 14 • Dana Ball
- 15 • Floyd Barrow
- 16 • Kilamanjaro Bell
- 17 • Laveaux Derosane
- 18 • Jelvon Helton
- 19 • Brian Hill
- 20 • Darrell Lockett
- 21 • Terry Lockett
- 22 • Marcus Mays
- 23 • Robert Mays
- 24 • Gary Owens

25 (Jackson Decl., ¶¶ 1-50.)

26 Accordingly, Plaintiff requests that the names of these thirty-four individuals be removed from
27 the Enforcement List of the Permanent Injunction in the interests of justice.

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CONCLUSION

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Based on the aforementioned, Plaintiff requests that the Court issue an Order Modifying the Permanent Injunction to remove Knock Out Posse as a defendant and the aforementioned thirty-four individuals from the Enforcement List.

Dated: April 20, 2018

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By: /s/ Jennifer E. Choi
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