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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
15 Attorney for the CITY AND COUNTY OF
SAN FRANCISCO,

16 Plaintiff,

17 vs.

18 DOWN BELOW GANGSTERS aka DBG, a
19 criminal street gang sued as an unincorporated
20 association, TOWERSIDE GANG, a criminal
21 street gang sued as an unincorporated
association, and DOE ONE through DOE
FIVE HUNDRED, inclusive,

22 Defendants.

Case No. CGC 10-502262

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFF'S
MOTION TO MODIFY PERMANENT
INJUNCTION RELATED TO DOWN BELOW
GANGSTERS aka DBG and TOWERSIDE GANG

(California Civil Code §3424, California Code of
Civil Procedure §533)

Reservation No. 06060712-03

Hearing Date: July 12, 2018
Hearing Judge: Hon. Harold Kahn
Time: 9:30 a.m.
Place: Dept. 302

Date of Injunction: February 17, 2011

24 Plaintiff People of the State of California seek to modify the Permanent Injunction issued by
25 the San Francisco Superior Court on February 17, 2011 against Defendants DOWN BELOW
26 GANGSTERS aka DBG ("DBG") and TOWERSIDE GANG ("TOWERSIDE"). This Permanent
27 Injunction is currently enforceable against Defendants DBG and TOWERSIDE, and 41 named non-
28

ELECTRONICALLY
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Superior Court of California,
County of San Francisco
06/07/2018
Clerk of the Court
BY: ANNA TORRES
Deputy Clerk

1 party individuals that this Court previously found to be active members of Defendant gangs. Plaintiff
2 seeks a court order modifying the Permanent Injunction to remove certain identified non-party
3 individuals currently bound by the Permanent Injunction because they are deceased, or they no longer
4 participate in gang-related activity and/or no longer contribute to the nuisance in the safety zones
5 caused by Defendants DBG and TOWERSIDE.

6 **BACKGROUND & PROCEDURAL HISTORY**

7 On August 5, 2010, Plaintiff filed a Complaint for Injunctive Relief against Defendants DBG
8 and TOWERSIDE. (See concurrently filed Declaration of DCA Michael Weiss ISO Plaintiff's
9 Motion to Modify Permanent Injunction Related to DOWN BELOW GANGSTERS aka DBG and
10 TOWERSIDE GANG ("Weiss Decl."), ¶ 3.)

11 On August 11, 2010, Plaintiffs filed moving papers in support of its August 12, 2010 ex parte
12 request for an Order to Show Cause re: Preliminary Injunction. (Weiss Decl., ¶ 4.) Plaintiff's moving
13 papers included a declaration from a San Francisco Police Department gang expert, and 120 (120)
14 declarations from San Francisco and Daly City Police Department Officers documenting the nuisance
15 caused by Defendants DBG and TOWERSIDE and forty-one (41) of Defendants' most active gang
16 members. (*Ibid.*) On August 12, 2010 this Court issued an Order to Show Cause re: Preliminary
17 Injunction, set a briefing schedule, and set a hearing for September 30, 2010. (*Ibid.*)

18 On September 30, 2010, following a hearing, the Court issued a Preliminary Injunction against
19 Defendants DBG and TOWERSIDE and 41 non-party individual gang members, enjoining them from
20 certain enumerated activities within the designated Safety Zone. (Weiss Decl., ¶ 5.)

21 Defendants DBG and TOWERSIDE failed to respond to Plaintiff's Summons and Complaint.
22 (Weiss Decl., ¶ 6.) On December 17, 2010, the Clerk of the Superior Court entered Default against
23 Defendants DBG and TOWERSIDE. (*Ibid.*)

24 On February 17, 2011, the Court issued an "Order Granting Default Judgment in the Form of
25 Permanent Injunction" against Defendants DBG and TOWERSIDE ("Permanent Injunction"). (Weiss
26 Decl., ¶ 7, Exh. A.) The Court found by clear and convincing evidence that: (1) Defendants DBG and
27 TOWERSIDE are criminal street gangs as defined by California Penal Code §186.22 and *People v.*
28 *Englebrecht* (2001) 88 Cal.App.4th 1236, 1258; and (2) Defendants DBG and TOWERSIDE, through

1 their members, have created a substantial and unreasonable public nuisance in the City and County of
2 San Francisco, within the Safety Zone. (Weiss Decl., ¶7, Exh. A.) In the Permanent Injunction, the
3 Court permanently enjoined Defendants DBG and TOWERSIDE, and 41 non-party individual
4 members of Defendant gangs from engaging in certain enumerated activities within the Safety Zone.
5 (*Ibid.*) The names of the 41 enjoined, non-party individual members of Defendant gangs appear on an
6 enforcement list attached as an exhibit to the Permanent Injunction. (*Ibid.*)

7 Since the entry of the Injunction, seven members have died. (See Request for Judicial Notice
8 in Support of Plaintiff's Motion to Modify Permanent Injunction Related to Down Below Gangsters
9 aka DBG and Towerside Gang ("RJN"), Exhibits A-G.)

10 On May 31, 2018, this Court issued an Order providing instructions on serving Defendants
11 with Plaintiff's Motion for Modification. (Weiss Decl., ¶8, Exh. B.)

12 **THE PERMANENT INJUNCTION SHOULD BE MODIFIED TO REMOVE CERTAIN**
13 **IDENTIFIED INDIVIDUALS FROM THE ENFORCEMENT LIST**

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].) On Page 7, the Permanent Injunction also authorizes any party to move to modify
20 the Permanent Injunction upon proper notice and motion. (Weiss 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." (See concurrently filed
23 Expert Declaration of San Francisco Police Department Sergeant Matthew Dudley ISO Plaintiff's
24 Motion to Modify Permanent Injunction Related to DOWN BELOW GANGSTERS aka DBG and
25 TOWERSIDE GANG ("Dudley Decl."), ¶¶ 17, 30.) Courts have recognized that, ". . . membership [in
26 gangs] is 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.) Plaintiff seeks to remove certain identified non-party individuals from the Permanent

1 Injunction's enforcement list because they are deceased, or they no longer participate in gang-related
2 activity and/or they no longer actively contribute to the nuisance in the Safety Zone. (Dudley Decl., ¶
3 50.) The names of the deceased to be removed from the enforcement list are as follows:

- 4 • Deshawn Byes (deceased) (RJN, Exh. A.)
- 5 • Allen Calloway (deceased) (RJN, Exh. B.)
- 6 • Tantrell Crawford (deceased) (RJN, Exh. C.)
- 7 • Frederick Glaspie (deceased) (RJN, Exh. D.)
- 8 • Ennis Johnson (deceased) (RJN, Exh. E.)
- 9 • Jordan Jordan (deceased) (RJN, Exh. F.)
- 10 • Diondre Young (deceased) (RJN, Exh. G.)

11 The names of the non-party individuals to be removed from the enforcement list are as follows:

- 12 • Lashawn Boston
- 13 • Christopher Byes
- 14 • Howard Dixon
- 15 • Deon Dogan
- 16 • Edgar Floyd
- 17 • Vincent Floyd
- 18 • Stephen Glass
- 19 • Alsedee Green
- 20 • Jason Jones
- 21 • Ceabe Justin
- 22 • Llewellyn Ledbetter
- 23 • Samoa Lefiti
- 24 • Wallace Pellette
- 25 • Raymond Rodgers
- 26 • Manuel Rose

27 Accordingly, Plaintiff requests, in the interests of justice, that the names of the aforementioned
28 non-party individuals be removed from the Permanent Injunction's enforcement list.

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CONCLUSION

Based on the foregoing, Plaintiff requests the Court issue an Order Modifying the Permanent Injunction to remove the aforementioned non-party individuals from the enforcement list.

Dated: June 6, 2018

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By: /s/ Michael S. Weiss
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