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Superior Court of California,
County of San Francisco

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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 San
15 Francisco,

16 Plaintiff,

17 vs.

18 OAKDALE MOB, a criminal street gang, sued
as an unincorporated association, and DOES 1
19 through 500,

20 Defendants.

Case No. CGC-06-456517

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFF'S
MOTION TO MODIFY PERMANENT
INJUNCTION RELATED TO OAKDALE MOB
[California Civil Code §3424, California Code of
Civil Procedure §533]

Reservation Number 05150628-06

Hearing Date: June 28, 2018
Hearing Judge: Hon. Harold Kahn
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: September 27, 2006
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 March 15, 2007 against Defendant Oakdale Mob, a criminal
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1 street gang, sued as an unincorporated association. The Permanent Injunction has been previously
2 modified twice by this Court, on February 18, 2009, and August 17, 2011, and is currently enforceable
3 against Defendant Oakdale Mob and thirty-two named non-party individuals that this Court previously
4 found to be active gang members. Plaintiff seeks a court order modifying the March 15, 2007
5 Permanent Injunction to remove fourteen of the thirty-two gang members currently bound by the
6 Permanent Injunction because they no longer contribute to the nuisance in the safety zone caused by
7 Defendant Oakdale Mob.

8 **BACKGROUND & PROCEDURAL HISTORY**

9 On September 27, 2006, Plaintiff filed a Complaint for Injunctive Relief against Defendant
10 Oakdale Mob Criminal Street Gang. (“Declaration of Jill Cannon ISO Plaintiff’s Motion to Modify
11 Permanent Injunction Related to Oakdale Mob” (“Cannon Decl.”), ¶ 3, filed concurrently with this
12 Motion.)

13 On September 28, 2006, Plaintiff filed a motion seeking a preliminary injunction against
14 Defendant. (Cannon Decl., ¶ 4.) This motion included a declaration from a gang expert and sixty-four
15 declarations of San Francisco Police Department Officers documenting the nuisance caused by
16 Defendant and its gang members. (*Id.*)

17 On November 29, 2006, following a hearing, the Court signed an Order granting a Preliminary
18 Injunction against Defendant Oakdale Mob criminal street gang and twenty-two non-party members of
19 the gang, enjoining them from certain enumerated activities within a neighborhood in San Francisco’s
20 Bayview Hunter’s Point (“Safety Zone”). (Cannon Decl., ¶ 5.)

21 Defendant Oakdale Mob failed to respond to Plaintiff’s Summons and Complaint. (Cannon
22 Decl., ¶ 6.) On February 2, 2007, the Clerk of the Superior Court entered Default against Defendant
23 Oakdale Mob criminal street gang. (*Id.*)

24 On March 15, 2007, the Court issued a Judgment Granting Permanent Injunction (“March 15,
25 2007 Permanent Injunction”). (Cannon Decl., ¶ 7, Exh. A.) The Court found by clear and convincing
26 evidence that: (1) Defendant Oakdale Mob criminal street gang is a criminal street gang as defined by
27 California Penal Code § 186.22 and *People v. Englebrecht* (2001) 88 Cal.App.4th 1236, 1258; (2) a
28 public nuisance exists in the gang’s Safety Zone; and (3) the conduct and activities of Defendant

1 Oakdale Mob and its members and those persons through whom Defendant acts caused the public
2 nuisance in the Safety Zone. (*Id.*, at ¶ 8, Exh. A.) In the March 15, 2007 Permanent Injunction, the
3 Court enjoined Defendant Oakdale Mob and twenty-two of its non-party individual members from
4 engaging in certain enumerated activities within the Safety Zone. (*Id.*, at ¶ 9, Ex. A.) The Court
5 further specified that the March 15, 2007 Permanent Injunction shall be subject to modification,
6 including to add individuals to, or remove individuals from, the list of persons subject to the
7 Injunction, upon noticed motion. (*Id.*)

8 On January 12, 2009, Plaintiff filed a motion to modify the March 15, 2007 Permanent
9 Injunction to add six additional non-party members of the gang to the enforcement list, and to remove
10 three deceased gang members. (Cannon Decl., ¶ 10.) This motion included a declaration from a gang
11 expert and fifty-eight declarations of San Francisco Police Department Officers documenting the
12 nuisance caused by Defendant and the gang members. (*Id.*)

13 On February 18, 2009, following a hearing, the Court signed an Order (“February 18, 2009
14 Order”) granting the motion to modify the March 15, 2007 Permanent Injunction against Defendant
15 Oakdale Mob criminal street gang to add the six additional Oakdale Mob members to the enforcement
16 list, and to remove the three deceased members. (Cannon Decl., ¶ 11, Ex. B.) The Court found by
17 clear and convincing evidence that the six members to be added were active members of the Oakdale
18 Mob criminal street gang and that “the ends of justice would be served” by modifying the March 15,
19 2007 Permanent Injunction to add them to the enforcement list for the Injunction. (*Id.*) The Court
20 further found that the three individuals to be removed were deceased and should be removed from the
21 enforcement list. (*Id.*) Otherwise, March 15, 2007 Permanent Injunction remained unaltered and in
22 full force and effect. (*Id.*)

23 On July 7, 2011, Plaintiff filed another motion to modify the March 15, 2007 Permanent
24 Injunction to add nine additional non-party members of the gang to the enforcement list, and to
25 remove two deceased gang members. (Cannon Decl., ¶ 12.) This motion included a declaration from
26 a gang expert and sixty declarations of San Francisco Police Department Officers documenting the
27 nuisance caused by Defendant and the gang members. (*Id.*)

1 On August 17, 2011, following a hearing, the Court signed an Order (“August 17, 2011
2 Order”) granting the motion to modify the March 15, 2007 Permanent Injunction against Defendant
3 Oakdale Mob criminal street gang by adding nine additional Oakdale Mob members to the
4 enforcement list, and removing two deceased members. (Cannon Decl., ¶ 13, Ex. C.) The Court
5 found by clear and convincing evidence that the nine members to be added were active members of the
6 Oakdale Mob criminal street gang and that “the ends of justice would be served” by modifying the
7 March 15, 2007 Permanent Injunction to add them to the enforcement list for the Injunction. (*Id.*) The
8 Court further found that the two individuals to be removed were deceased and should be removed
9 from the enforcement list. (*Id.*) The August 17, 2011 Order also contained a complete enforcement
10 list of the thirty-two non-party gang members subject to the March 15, 2007 Permanent Injunction
11 following the modification. (*Id.*) Otherwise, and as modified by the amendments to the enforcement
12 list in the February 18, 2009 Order, the March 15, 2007 Permanent Injunction remained unaltered and
13 in full force and effect. (*Id.*)

14 On May 10, 2018, this Court issued an Order providing instructions on how Plaintiff’s current
15 Motion for Modification should be served on Defendants. (Cannon Decl., ¶ 14, Ex. D.)

16 **THE PERMANENT INJUNCTION SHOULD BE MODIFIED TO REMOVE FOURTEEN**
17 **GANG MEMBERS**

18 Upon notice and motion, this Court may modify a final injunction upon a showing that there
19 has been a material change in the facts upon which the injunction was granted, the law upon which the
20 injunction was granted has changed, or “the ends of justice would be served.” (Cal. Civ. Code §
21 3424(a); Cal. Code Civ. Proc. § 533; *Sontag Stores Co. v. Superior Court* (1941) 18 Cal.2d 92, 94-95
22 [explaining that a preventive injunction is continuing in nature and is always subject to modification
23 upon proper showing].) Section 3 of the March 15, 2007 Permanent Injunction also authorizes any
24 party to move to modify the Permanent Injunction, including to remove persons to be bound by the
25 Permanent Injunction, upon proper notice and motion. (Cannon Decl., Exh. A.)

26 Plaintiff seeks to modify the March 15, 2007 Permanent Injunction to reflect changes in
27 membership in the enjoined gang over the years because, “membership evolves over time.” (“Expert
28 Declaration of San Francisco Police Department Officer Leonard Broberg ISO Plaintiff’s Motion to

1 Modify Permanent Injunction Related to Oakdale Mob” (“Broberg Decl.”), ¶¶ 23, 43, filed
2 concurrently with this Motion.) Courts have recognized that “. . . membership [in gangs] is
3 continually changing. New members are joining the gang, while old members are leaving or
4 becoming inactive.” (*People ex rel Gregory D. Totten v. Colonia Chiques* (2007) 156 Cal.App.4th 31,
5 41.)

6 Specifically, Plaintiff seeks to remove fourteen of the thirty-two non-party individuals
7 currently bound by the March 15, 2007 Permanent Injunction because they no longer actively
8 contribute to the nuisance in the Safety Zone. (Broberg Decl., ¶¶1-43.)¹

9 The names of the fourteen individuals Plaintiffs seeks to remove are as follows:

- 10 • Laurice Barrett
- 11 • Larry Benjamin
- 12 • Deonte Bennett
- 13 • Shaun Britton
- 14 • Donte Brooks
- 15 • Geary Brown
- 16 • Namone Green
- 17 • Shanteak Harris, aka Shanteak Kincaid
- 18 • Antonio Johnson
- 19 • Curtis Jones
- 20 • Eric Jones
- 21 • Michael Metcalf
- 22 • DeShawn Range
- 23 • Mario Woods

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27 ¹ Two of the fourteen individuals are deceased. They are Laurice Barrett and Mario Woods.
28 (“Request for Judicial Notice ISO of Plaintiff’s Motion to Modify Permanent Injunction Related to
Oakdale Mob” (“RJN”), Exhs. A-B (filed concurrently with this Motion).)

