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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
DEC 08 2011
John A. Clarke/Executive Officer/Clerk
By Amber Lafleur-Clayton Deputy

6 Attorneys for Plaintiff, City of Los Angeles

D29 Yvette Palazuelos

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 **BC474838**

11 CITY OF LOS ANGELES,

CASE NO.

12 Plaintiff,

**COMPLAINT FOR DECLARATORY
RELIEF TO DETERMINE VALIDITY OF
PROPOSED INITIATIVE MEASURE**

13 v.

14
15 GERARD KENSLEA, MICHAEL WEINSTEIN,
16 MARIJANE JACKSON, ARLETTE De La
CRUZ, MARK ROY McGRATH,

17 Defendants.

18
19
20 Plaintiff, the CITY OF LOS ANGELES, alleges:

21 1. Plaintiff, the CITY OF LOS ANGELES, a municipal corporation (hereinafter the
22 "CITY"). The City of Los Angeles is, and at all times mentioned herein, was a municipal corporation
23 and a charter city, incorporated pursuant to the laws of the State of California and located in the County
24 of Los Angeles. The Defendants, Gerard Kenslea, Michael Weinstein, Marijane Jackson, Arlette De la
25 Cruz, and Mark Roy McGrath, are Proponents of the Initiative Ordinance. The CITY is informed and
26 believes and thereon alleges that Gerard Kenslea, Michael Weinstein, Marijane Jackson, Arlette De la
27 Cruz, and Mark Roy McGrath are individual registered voters of the City.

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1 2. The City of Los Angeles is a Charter city and therefore its elections are governed by the
2 City Charter and the City Election Code. (Cal. Const., Art. XI, sec. 5(b).) City elections are not
3 governed by the California Elections Code.

4 3. On or about August 31, 2011, the five registered voters of the City, the Defendants,
5 submitted a proposed initiative petition, for circulation to the City Clerk's Office. The petition,
6 circulated pursuant to Los Angeles City Election Code Section 700, would require the City to adopt an
7 ordinance or submit to the voters a prospective ordinance to require any film permit issued under the
8 authority of the City for commercial production of an adult film be conditioned on the usage of condoms
9 in the making of the films. The initiative also would require the City to charge film permit applicants a
10 fee to pay for periodic inspections. The initiative petition title is "Adult Film Industry; Use of Condoms;
11 Film Permits. Initiative Ordinance." ("Adult Film Workplace Condom Initiative") A copy of the
12 proposed measure is attached to the complaint as Attachment A.

13 4. On or about December 5, 2011, the Defendants submitted 70,901 signatures to place the
14 initiative on the June, 2012 ballot, the next election ballot.

15 5. Pursuant to Los Angeles City Charter Section 451(c), the City Clerk "shall examine the
16 petition and determine whether it contains the requisite number of signatures of registered voters, in
17 accordance with procedures contained in the City Election Code." The City Clerk must review the
18 signed petition to determine whether it contains signatures of 15% of voters equaling the total number of
19 votes cast for all candidates for Mayor at the last municipal election. City Charter Section 451(b). The
20 required signatures must be those of registered voters. City Charter Section 451(c). The City Clerk has
21 30 days to examine the petition signatures after the issuance of the Final Acceptance of Filing unless a
22 random sampling is used. City Election Code Section 711(a). If using a random sampling, the City
23 Clerk may conduct a random sampling within 15 days after the issuing the Final Acceptance of Filing.
24 If the statistical sampling shows valid signatures within 90 to 110 percent of the number of qualified
25 signatures needed, the City Clerk has an additional 30 days to examine and verify each signature. City
26 Election Code Section 711(b).

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1 6. Pursuant to City Charter Sections 450, *et seq.*, once the City Clerk determines that the
2 petition contains the qualified number of signatures; a certification of sufficiency is prepared for
3 presentation to the City Council for either adoption or placement on the ballot.

4 7. Once presented with an initiative petition by the City Clerk, the City Council has 20 days
5 within which to adopt the proposed ordinance without alteration or to call a special election to be held
6 not earlier than 110 days nor more than 140 days after Council action on the petition or to submit the
7 proposed ordinance to a vote not earlier than 110 days from the action on the petition at the next regular
8 City election or special election consolidated with the next election conducted by the County of Los
9 Angeles occurring within the same geographic area. City Charter Section 452. The next election
10 conducted by the County of Los Angeles would be the June 5, 2012, statewide primary election. The
11 City Council's deadline for requesting the City Attorney to prepare all resolutions and ordinances
12 necessary to place a measure, including an initiative, on the ballot must be made not less than 125 days
13 prior to the election, which would be February 1, 2012, for purposes of the June 5, 2012, Statewide
14 Primary Election, unless the initiative is presented to the City Council less than 125 days prior to the
15 election. City Election Code Section 601. The City's deadline for requesting the County to consolidate
16 a City measure is 88 days before the scheduled election, or in the case of the potential Adult Film
17 Workplace Condom Initiative, March 7, 2012, considering the City Council's meeting schedule.
18 California Elections Code Section 10403. The next regular City election will be held on March 2, 2013.
19 No Citywide election is currently scheduled for 2012.

20 8. The CITY contends that the proposed measure is preempted by California Labor Code
21 Sections 140, *et seq.*, and specifically California Labor Section 144.7, which mandates the use of barrier
22 protection in the workplace when employees are exposed to blood borne pathogens.

23 9. The CITY contends that the California Legislature expressly retained exclusive
24 jurisdiction with Cal-OSHA for the enforcement of occupation safety and health standards adopted by
25 the Standards Board. Labor Code Section 144, subsection (e) provides "[n]othing in this section shall
26 affect or limit the authority of any state or local agency as to any matter **other than the enforcement of**
27 **occupational safety and health standards adopted by the [Standards] Board**; however, nothing
28

1 herein shall limit or reduce the authority of local agencies to adopt and enforce higher standards relating
2 to occupational safety and health for their own employees.”

3 10. The CITY contends that Labor Code Section 144.7 is an occupational safety and health
4 standard adopted by the Standards Board.

5 11. The CITY is informed and believes, and based upon that information and belief alleges,
6 that the Defendants dispute the CITY's allegations in Paragraphs 8, 9 and 10, above.

7 12. Pre-election, judicial review of whether the CITY is preempted from presenting to the
8 voters the measure submitted by Defendants serves the public interest because a post-election judicial
9 determination that the measure is preempted by State law voters undermines public trust in the petition
10 process. Furthermore, a post-election determination that a measure is patently illegal would undermine
11 the public trust in the government institutions and elected officials who play a role in the qualification of
12 measures for the ballot. A post-election determination that a measure is patently illegal undermines the
13 credibility of the elections process in general, which is amongst our most treasured and essential
14 democratic institutions.

15 13. A post-election judicial determination that an initiative is illegal would also waste
16 millions of dollars of taxpayer money incurred in the process of preparing such initiative for the ballot.

17 14. The CITY seeks a declaration that the proposed measure is unconstitutional, and that the
18 Los Angeles voters have no power to adopt the proposed measure.

19 15. The CITY also seeks a judicial declaration to the effect that because the voters have no
20 power to adopt the measure proposed by the Defendants, the City Clerk is relieved of her duty to prepare
21 the initiative for certification to the City Council, including verifying and counting signatures under the
22 City Election Code sections petition containing the requisite number of signatures, pursuant to the City
23 Election Code Section 700, *et seq.*

24 16. The CITY further seeks a judicial declaration to the effect that because the voters have no
25 power to adopt the measure proposed by the Defendants, the City Council is relieved of its duty to adopt
26 or include the measure on an election ballot.

27 17. Such declarations are necessary in order to avoid the needless and wasteful expenditure
28 of public resources made in connection with a measure which the voters have no power to adopt.

PRAYER

WHEREFORE, Plaintiff prays that is court order, adjudge and decree as follows:

1. That the Adult Film Workplace Condom Initiative is preempted by State law;
2. That, as a result of the state preemption, the Los Angeles voters have no power to adopt the Adult Film Workplace Condom Initiative;
3. That the City Clerk is relieved of her duty to prepare the initiative for certification to the City Council, including verifying and counting petition signatures; and
4. That the City Council is relieved of its duty, should the City Clerk certify the petition as sufficient, to adopt the ordinance or place the initiative on the ballot;
5. That other no steps necessary to place the Adult Film Workplace Condom Initiative be taken by any other governmental agency to place the initiative on the ballot;
6. Such other and further relief as the court deems proper.

Dated: December 8, 2011 Respectfully submitted,

CARMEN A. TRUTANICH, City Attorney
VALERIE L. FLORES, Managing Assistant City Attorney
HARIT U. TRIVEDI, Deputy City Attorney
KIMBERLY MIERA, Deputy City Attorney
OFFICE OF THE LOS ANGELES CITY ATTORNEY

By 
KIMBERLY MIERA
Attorneys for City of Los Angeles

VI/88/21

EXHIBIT A

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Committee of proponents, who are registered voters of the City of Los Angeles, sponsoring the petition:
Gerard Kenslea, Michael Weinstein, Marijane Jackson, Arlette De La Cruz, Mark Roy McGrath

As required by the Charter, the City Attorney has prepared the following official petition title, and official petition summary of the primary provisions of this initiative ordinance measure to be adopted by the City Council or submitted directly to the voters.

ADULT FILM INDUSTRY; USE OF CONDOMS; FILM PERMITS. INITIATIVE ORDINANCE.

The proposed ordinance would require any person or entity directly engaged in the creation of adult films who is issued a permit under the authority of the City of Los Angeles (City) for commercial filming of an adult film to maintain engineering and work practice controls, including the provision of and required use of condoms, sufficient to protect employees from exposure to blood or other potentially infectious materials consistent with state law. The proposed ordinance also would require that any film permit issued under authority of the City for commercial filming of an adult film be conditioned on compliance with this requirement and include language regarding the obligation to comply with applicable workplace health and safety regulations. The proposed ordinance also would require the City to charge applicants seeking permits for production of adult films a fee sufficient to pay for periodic inspections. The proposed ordinance would amend the Los Angeles City Municipal Code.

TEXT OF THE PROPOSED MEASURE

CITY OF LOS ANGELES SAFER SEX IN THE ADULT FILM INDUSTRY ACT

Section 1. Title.

This ordinance shall be known and may be cited as the City of Los Angeles Safer Sex In The Adult Film Industry Act.

Section 2. Findings and Declaration.

The people of the City of Los Angeles hereby find and declare all of the following:

- (a) The HIV/AIDS crisis, and the ongoing epidemic of sexually transmitted infections as a result of the making of adult films, has caused a negative impact on public health and the quality of life of citizens living in Los Angeles.
- (b) Safer sex practices are a prime method of preventing and reducing the spread of HIV/AIDS and other sexually transmitted infections.
- (c) The Los Angeles County Department of Public Health has documented widespread transmission of sexually transmitted infections associated with the activities of the adult film industry within the City of Los Angeles.
- (d) The Los Angeles County Department of Public Health has opined that the use of condoms is the best and most effective way to stem the spread of sexually transmitted infections within the adult film industry.
- (e) Multiple organizations committed to protecting the public health have called for mandatory use of condoms in the production of adult films, including the American Medical Association, the American Public Health Association, the California Conference of Local AIDS Directors, the California STD Controllers Association, the National Coalition of STD Directors, the National Association of City and County Health Officials, AIDS Healthcare Foundation and the California Medical Association.
- (f) Producers of adult films are required by California Code of Regulations Title 8, Section 5193 to use barrier protection, including condoms, to protect employees during the production of adult films.
- (g) Many producers of adult films in Los Angeles consistently violate the worker safety provisions of California Code of Regulations Title 8, section 5193.
- (h) Pursuant to Section 12.22(A)(13) of the Los Angeles Planning and Zoning Code, producers of all films within the City of Los Angeles, including adult films, are required to obtain film permits. Permits issued pursuant to Section 12.22(A)(13) may contain conditions "consistent with public health, safety

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ELECTRONIC DIVISION

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and general welfare.”

- (i) Permits for adult films are currently conditioned with language stating “INTERIOR AND EXTERIOR NUDITY OR SEXUAL ACTIVITY MUST NOT BE VISIBLE OR AUDIBLE BY THE PUBLIC.”
- (j) The City or any person or entity acting on its behalf to issue or process film permits may charge permittees fees in conjunction with the issuance of film permits. Such fees may include fees to provide for inspectors to ensure compliance with conditions on film permits.

Section 3. Purpose and Intent.

The people of the City of Los Angeles hereby declare their purpose and intent in enacting this ordinance to be to minimize the spread of sexually transmitted infections resulting from the production of adult films in the City of Los Angeles, which have caused a negative impact on public health and the quality of life of citizens living in Los Angeles.

Section 4.

Section 12.22.1 is hereby added to the Los Angeles Planning and Zoning Code to read as follows:

SECTION 12.22.1

SAFER SEX

CHAPTER 1

SAFER SEX; SHORT TITLE AND PUBLIC POLICY

12.22.1(A). Short Title.

This chapter shall be known as the City of Los Angeles Safer Sex In The Adult Film Industry Act.

12.22.1(B). Use of Condoms In The Making of Adult Films

- (1) An “adult film” is defined as any film, video, multimedia or other representation of sexual intercourse in which performers actually engage in oral, vaginal, or anal penetration, including but not limited to penetration by a penis, finger, or inanimate object; oral contact with the anus or genitals of another performer; and/or any other activity that may result in the transmission of blood and/or any other potentially infectious materials as defined in California Code of Regulations, Title 8, Section 5193(b).
- (2) “Producer of adult film” is defined as any person or entity directly engaged in the creation of adult films.
- (3) “Filmed” and “filming” refer to the recording of any adult film, regardless of media.
- (4) All producers of adult films issued permits under the authority of the City of Los Angeles or the Los Angeles Police Department pursuant to Section 12.22(A)(13) of this Code or any other law authorizing the issuance of permits for commercial filming are required to maintain engineering and work practice controls sufficient to protect employees from exposure to blood and/or any other potentially infectious materials controls consistent with California Code of Regulations, Title 8, Section 5193. Engineering and work practice controls include, but are not limited to:
 - (a) Simulation of sex acts using acting, production and post-production techniques;
 - (b) Ejaculation outside workers’ bodies;
 - (c) Provision of and required use of condoms whenever acts of vaginal or anal sex are performed during the production of an adult film; and
 - (d) The provision of condom-safe water-based or silicone-based lubricants to facilitate the use of condoms.
- (5) Any film permit issued under the authority of the City of Los Angeles or the Los Angeles Police Department pursuant to Section 12.22(A)(13) of this Code or any other law authorizing the issuance of permits for commercial filming for the production of an adult film must expressly condition said permit on compliance with subsection (4) of this section. Any such permit shall contain the following language: “Permittee must abide by all applicable workplace health and safety regulations, including California Code of Regulations Title 8, Section 5193, which mandates barrier protection, including condoms, to shield performers from contact with blood or other potentially infectious material during the production of films.”
- (6) The City shall charge, or shall direct any other person or entity contracting with the City to administer the film permitting process, to charge, entertainment industry customers seeking permits for the production of adult films a fee sufficient to allow periodic inspections to ensure compliance with the conditions set forth in Section 12.22.1(B)(4).

Section 5. Competing Measures

In the event that this measure and another measure or measures relating to the permit process for adult films shall appear on the same ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other relating to the permit process for adult films shall be null and void.

Section 6. Amendment and Repeal.

This chapter may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor.

This chapter may not be repealed, except by an ordinance proposed either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the charter superseding the ordinance.

Section 7. Severability

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the Act are severable.

1 **PROOF OF SERVICE**

2 I, KIMBERLY MIERA, declare as follows:

3 At the time of service I was over 18 years of age and not a party to this action. My business
4 address is 200 N. Main Street, 800 City Hall East, Los Angeles, CA 90012, County, City and State
5 where this mailing occurred.

6 On December 8, 2011, copies of the foregoing document(s) described as: **COMPLAINT FOR
7 DECLARATORY RELIEF TO DETERMINE VALIDITY OF PROPOSED INITIATIVE
8 MEASURE**

9 were served upon all interested parties in this action:

10 **Steven J. Reyes**
11 **Kaufman Legal Group**
12 777 S. Figueroa Street, Suite 4050
13 Los Angeles, CA 90017-5864

14 Said document was placed in a sealed envelope or package addressed to the person address as indicated
15 above and served in the manner prescribed below:

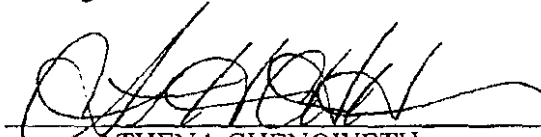
16 By United States Mail; and

17 placed the envelope for collection and mailing, following our ordinary business practices. I am
18 readily familiar with this business's practice for collecting and processing correspondence for mailing.
19 On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary
20 course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
21 I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date
22 or postage meter date is more than one day after date of deposit for mailing affidavit.

23 By electronic service pursuant to Code of Civil Procedure Section 1013, subsection (g).

24 I declare that I am employed in the office of a member of the bar of this court at whose direction
25 the service was made. I declare under penalty of perjury under the laws of the State of California that
26 the foregoing is true and correct

27 Executed on December 8, 2011, at Los Angeles, California 90012.

28 
ATHENA CHENOWETH

12/09/11

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Bar number, and address):
CARMEN A. TRUTANICH (SBN 86629)XX
Office of the Los Angeles City Attorney
200 North Main St., 8th Floor, City Hall East

Los Angeles, CA 90012
TELEPHONE NO.: (213) 978-7100 FAX NO.: (213) 978-8787

ATTORNEY FOR (Name): Petitioner City of Los Angeles

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS: 111 North Hill Street
CITY AND ZIP CODE: Los Angeles, CA 90012
BRANCH NAME: STANLEY MOSK

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DEC 08 2011

John A. Clarke / Executive Officer / Clerk
By Amber Lafleur-Clayton Deputy
AMBER LAFLEUR-CLAYTON

CASE NAME: CITY OF LOS ANGELES v. GERARD KENSLEA, et al.

CASE NUMBER: **BC474838**

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

- | | | |
|--|---|--|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input checked="" type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties d. Large number of witnesses
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December , 2011

CARMEN A. TRUTANICH (SBN 86629)XX

(TYPE OR PRINT NAME)

[Signature]
SIGNATURE OF PARTY OR ATTORNEY FOR PARTY

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
- Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - Sister State Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (not specified above) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (non-harassment)
 - Mechanics Lien
 - Other Commercial Complaint Case (non-tort/non-complex)
 - Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition

SHORT TITLE: CITY OF LOS ANGELES v. GERARD KINSEA, et al.

CASE NUMBER

BC474838

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL _____ HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

Auto Tort

Other Personal Injury/Property
Damage/Wrongful Death Tort

| A Civil Case Cover Sheet Category/No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|--|---|
| Auto (22) | <input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death | 1., 2., 4. |
| Uninsured Motorist (46) | <input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist | 1., 2., 4. |
| Asbestos (04) | <input type="checkbox"/> A6070 Asbestos Property Damage | 2. |
| | <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death | 2. |
| Product Liability (24) | <input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental) | 1., 2., 3., 4., 8. |
| Medical Malpractice (45) | <input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons | 1., 4. |
| | <input type="checkbox"/> A7240 Other Professional Health Care Malpractice | 1., 4. |
| Other Personal Injury Property Damage Wrongful Death (23) | <input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) | 1., 4. |
| | <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) | 1., 4. |
| | <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress | 1., 3. |
| | <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death | 1., 4. |

| | A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|---|---|--|
| Non-Personal Injury/Property Damage/ Wrongful Death Tort | Business Tort (07) | <input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract) | 1., 3. |
| | Civil Rights (08) | <input type="checkbox"/> A6005 Civil Rights/Discrimination | 1., 2., 3. |
| | Defamation (13) | <input type="checkbox"/> A6010 Defamation (slander/libel) | 1., 2., 3. |
| | Fraud (16) | <input type="checkbox"/> A6013 Fraud (no contract) | 1., 2., 3. |
| | Professional Negligence (25) | <input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal) | 1., 2., 3. 1., 2., 3. |
| | Other (35) | <input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort | 2., 3. |
| Employment | Wrongful Termination (36) | <input type="checkbox"/> A6037 Wrongful Termination | 1., 2., 3. |
| | Other Employment (15) | <input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals | 1., 2., 3. 10. |
| Contract | Breach of Contract/ Warranty (06) (not insurance) | <input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence) | 2., 5. 2., 5. 1., 2., 5. 1., 2., 5. |
| | Collections (09) | <input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case | 2., 5., 6. 2., 5. |
| | Insurance Coverage (18) | <input type="checkbox"/> A6015 Insurance Coverage (not complex) | 1., 2., 5., 8. |
| | Other Contract (37) | <input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence) | 1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8. |
| | Eminent Domain/Inverse Condemnation (14) | <input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____ | 2. |
| | Wrongful Eviction (33) | <input type="checkbox"/> A6023 Wrongful Eviction Case | 2., 6. |
| Real Property | Other Real Property (26) | <input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure) | 2., 6. 2., 6. 2., 6. |
| | Unlawful Detainer-Commercial (31) | <input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction) | 2., 6. |
| | Unlawful Detainer-Residential (32) | <input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction) | 2., 6. |
| Unlawful Detainer | Unlawful Detainer- Post-Foreclosure (34) | <input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure | 2., 6. |
| | Unlawful Detainer-Drugs (38) | <input type="checkbox"/> A6022 Unlawful Detainer-Drugs | 2., 6. |

| A Civil Case Cover Sheet Category No | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|--|---|
| Asset Forfeiture (05) | <input type="checkbox"/> A6108 Asset Forfeiture Case | 2, 6. |
| Petition re Arbitration (11) | <input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration | 2, 5. |
| Writ of Mandate (02) | <input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review | 2, 8. 2. 2. |
| Other Judicial Review (39) | <input type="checkbox"/> A6150 Other Writ /Judicial Review | 2, 8. |
| Antitrust/Trade Regulation (03) | <input type="checkbox"/> A6003 Antitrust/Trade Regulation | 1, 2, 8. |
| Construction Defect (10) | <input type="checkbox"/> A6007 Construction Defect | 1, 2, 3. |
| Claims Involving Mass Tort (40) | <input type="checkbox"/> A6006 Claims Involving Mass Tort | 1, 2, 8. |
| Securities Litigation (28) | <input type="checkbox"/> A6035 Securities Litigation Case | 1, 2, 8. |
| Toxic Tort Environmental (30) | <input type="checkbox"/> A6036 Toxic Tort/Environmental | 1, 2, 3, 8. |
| Insurance Coverage Claims from Complex Case (41) | <input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only) | 1, 2, 5, 8. |
| Enforcement of Judgment (20) | <input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case | 2, 9. 2, 6. 2, 9. 2, 8. 2, 8. 2, 8., 9. |
| RICO (27) | <input type="checkbox"/> A6033 Racketeering (RICO) Case | 1, 2, 8. |
| Miscellaneous Civil Complaints (Not Specified Above) (42) | <input checked="" type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex) | 1, 2, 8. 2, 8. 1, 2, 8. 1, 2, 8. |
| Partnership Corporation Governance (21) | <input type="checkbox"/> A6113 Partnership and Corporate Governance Case | 2, 8. |
| Miscellaneous Civil Petitions (Not Specified Above) (43) | <input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition | 2, 3, 9. 2, 3, 9. 2, 3, 9. 2. 2, 7. 2, 3, 4, 8. 2, 9. |

Judicial Review

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

12/08/11

SHORT TITLE: CITY OF LOS ANGELES v. GERARD KINSEA, et al.

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

| | | |
|---|--|--------------------|
| REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. | ADDRESS: 200 North Main Street 8th Floor Los Angeles, CA 90012 | |
| CITY: Los Angeles | STATE: CA | ZIP CODE: 90012 |

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the _____ courthouse in the _____ District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: 12/8/11


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

12/8/11