

September 21, 2012

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VIA EMAIL AND FACSIMILE

Charles D. Sakai, Esq.
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350 Sansome Street, 3rd Floor
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**Re: San Jose POA v. City of San Jose, Santa Clara County
Superior Court, No. 1-12-CV-231271—Outsourcing
Ex Parte Application for Temporary Restraining Order and
Order to Show Cause Regarding Preliminary Injunction
File No. 038780**

Dear Charles:

This notice is provided pursuant to California Rules of Court 3.1203 and 3.1204(a)(1) on behalf of our client, the San Jose Police Officers' Association ("SJPOA"). We write to provide notice that on Monday, September 24, 2012, at 8:15 a.m., the SJPOA will move *ex parte* for a Temporary Restraining Order and Order to Show Cause why a Preliminary Injunction should not issue restraining Defendant the City of San Jose from contracting out background investigation services currently performed by sworn police officers employed by the City of San Jose pending the completion of arbitration over the SJPOA's grievance contained in letters dated July 26 and August 9, 2012. Good cause exists for SJPOA's application to preserve the *status quo* pending arbitration and to protect the jurisdiction of the arbitrator, in the event he/she determines that the outsourcing of background investigations is prohibited by the parties' labor agreement, to enjoin such contracting and prevent irreparable harm to the SJPOA and its members' contractual rights. This so called "reverse *Boys Market* injunction" is permitted under *Boys Markets, Inc. v. Retail Clerk's Union* (1970) 398 U.S. 235, *Lever Brothers Co. v. Int'l Chemical Workers Union* (4th Cir. 1976) 554 F.2d 115, and California Labor Code section 1126.

The papers supporting the *ex parte* application are not yet finalized. However, in accordance with California Rule of Court No. 3.1206, we will serve them at the earliest reasonable opportunity.

Charles D. Sakai, Esq.

Re: *San Jose POA v. City of San Jose*, Santa Clara County Superior Court,

No. 1-12-CV-231271—Outsourcing

September 21, 2012

Page 2

Finally, in accordance with California Rule of Court No. 3.1204(a)(2), please let me know as soon as possible whether you plan to attend to oppose this *ex parte* application.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Amber L. West

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