

# EXHIBIT 28

Exempt from Filing Fee  
Government Code § 6103

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 COUNTY OF LOS ANGELES  
 11 CENTRAL DISTRICT

12 COUNTY OF LOS ANGELES.

13 Petitioner/Plaintiff.

14 vs.

15 ALEX VILLANUEVA, Sheriff of Los  
 16 Angeles County Sheriff's Department;  
 17 CAREN CARL MANDOYAN, an individual;  
 18 LOS ANGELES COUNTY SHERIFF'S  
 19 DEPARTMENT; and DOES 1 through 10,  
 20 inclusive.

19 Respondents/Defendants.

CASE NO. 19STCP00630

**RESPONDENTS/DEFENDANTS  
 SHERIFF ALEX VILLANUEVA AND  
 LOS ANGELES COUNTY SHERIFF'S  
 DEPARTMENT'S OPPOSITION TO  
 COUNTY OF LOS ANGELES'  
 APPLICATION FOR TEMPORARY  
 RESTRAINING ORDER AND ORDER TO  
 SHOW CAUSE RE PRELIMINARY  
 INJUNCTION**

[Filed Concurrently with Declarations of  
 Eliezer Vera, Steven E. Gross, and Esmeralda  
 Ramirez, and Objections to, and Motion to  
 Strike, Evidence Submitted by County of Los  
 Angeles in Support of Its Application for TRO  
 and Order to Show Cause re Preliminary  
 Injunction]

Date: March 6, 2019  
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Action Filed: March 4, 2019  
 Trial Date: None Set

26 PUBLIC - REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD

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 28  
 RESPONDENTS DEFENDANTS VILLANUEVA AND LASD'S OPPOSITION  
 TO COUNTY'S APPLICATION FOR TRO

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1 **I. PRELIMINARY STATEMENT**

2 Sheriff Alex Villanueva was elected in November 2018 and assumed command of the Los  
3 Angeles Sheriff's Department (the "Department" or "LASD") on December 3, 2018. LASD is the  
4 nation's largest Sheriff's Department and the fourth largest police agency in the country, and the  
5 Sheriff is the chief law enforcement officer in Los Angeles County, presiding over a Department  
6 with approximately 18,000 employees, including over 9,000 sworn peace officers, serving the  
7 County's 10 million residents. In addition to preventing, investigating and disrupting crime,  
8 LASD operates the County Jail system through which over 200,000 inmates pass each year, and  
9 bailiffs the 47 courthouses and almost 600 courtrooms of the Los Angeles County Superior Court.  
10 It is undisputed that under the California Constitution, State law and the LA County Charter, the  
11 exclusive authority to oversee the operational activities of the Sheriff's Department is entrusted  
12 solely to the elected Sheriff.

13 Central to the Sheriff's constitutional role is the authority to hire, deploy and supervise the  
14 sworn peace officers who perform the investigative, custodial and bailiff duties under the ultimate  
15 supervision of the Sheriff. The County concedes this in Exhibit 7 to its Request for Judicial  
16 Notice: "By County charter, the Sheriff, as the appointing authority, has the right to make  
17 personnel decisions within the Sheriff's Department." Plaintiff's Request For Judicial Notice. Ex.  
18 7 (January 29 motion adopted by the Board of Supervisors). Yet by this lawsuit, the same five-  
19 member County Board of Supervisors asks this Court to issue a *mandatory* injunction (strongly  
20 disfavored under the law) forcing Sheriff Villanueva and LASD to terminate Deputy Caren "Carl"  
21 Mandoyan, whom LASD rehired in December 2018.

22 The County strains to characterize the relief sought as a prohibitory injunction enjoining,  
23 for example, LASD from "recognizing or holding out" Deputy Mandoyan as an LASD Deputy  
24 Sheriff (TRO Application at 3) but to do so, Deputy Mandoyan must be terminated from his  
25 current position as a Deputy. California case law holds that the substance, not the form of an  
26 injunction, is controlling; thus, if as here an injunction requires affirmative action that changes the  
27 status quo, it is a *mandatory* injunction. See *Agricultural Labor Relations Board v. Superior*  
28 *Court (Sam Andrews' Sons)*, 149 Cal. App. 3d 709 (1983). The status quo is that Deputy

1 Mandoyan is presently serving as an LASD Deputy Sheriff, and the County's argument that the  
2 Court should consider the events of September 2016 to be the status quo presently, is absurd.

3 As shown in detail below, an examination of the relevant factors shows the application  
4 should be denied. Under criteria established by State law, Deputy Mandoyan is legally qualified  
5 to serve as a sworn peace officer, and the County cites neither authority to the contrary nor  
6 authority prohibiting Sheriff Villanueva (or any other County sheriff or municipal police  
7 department for that matter) from enlisting Deputy Mandoyan's services. Absent such authority,  
8 the rehiring of Deputy Mandoyan was a lawful exercise of the Sheriff's authority, and the County  
9 cannot show that it will prevail on the merits, let alone that it is clearly entitled to an injunction as  
10 required when a mandatory injunction is sought. Balancing the respective harms, the Department,  
11 the Sheriff, the community and the Deputy will be harmed far beyond the harm imagined by the  
12 County to arise from the continued service of a 16-year veteran who is POST-certified and meets  
13 all legal requirements to serve as a peace officer.

## 14 **II. FACTUAL BACKGROUND**

15 Los Angeles County Sheriff Alex Villanueva was elected to office in November 2018 and  
16 sworn in on December 3, 2018. Sheriff Villanueva campaigned on a message of reform and  
17 rebuilding LASD. Since taking office, Sheriff Villanueva has been working to follow through on  
18 the promises and policies the voters elected him to enact. One aspect of these changes and  
19 reforms is the review of personnel within LASD. For instance, Sheriff Villanueva's office has  
20 begun a widespread leadership review process for 500 ranking officers. Additionally, Sheriff  
21 Villanueva's office has begun to review personnel decisions made by former Sheriffs under prior  
22 rules. In order to review the personnel decisions made by prior Sheriffs, the newly elected Sheriff  
23 created a "Truth and Reconciliation Panel."

24 In late December of last year, one such Panel reviewed the disciplinary case file of Deputy  
25 Mandoyan, a 16-year LASD veteran. [REDACTED]  
26 (Declaration of Steven E. Gross ISO Respondents/Defendants Opposition ("Gross Declaration")  
27 Ex. 1 at 6.) In September 2016, Deputy Mandoyan was discharged from duty as a result of an  
28 investigation related to allegations of domestic abuse against him. (Compl. ¶ 2.) Believing the

1 evidence warranted further examination, in December 2019, in preparation for the Truth and  
2 Reconciliation Panel, the Internal Affairs Bureau ("IAB") conducted a review of the record of  
3 Deputy Mandoyan's discharge. (Gross Decl. ¶ 3.) The IAB reviewed the entirety of the  
4 documentary file in Deputy Mandoyan's personnel action and prepared a memo for use in the  
5 review of Deputy Mandoyan's case. (*Id.*) With a Principal Deputy County Counsel and IAB  
6 representative in attendance, on December 21, 2018, the Truth and Reconciliation Panel convened  
7 to analyze the record of Deputy Mandoyan's case and make a recommendation as to his  
8 employment. (Declaration of Eliezer Vera ISO Respondents/Defendants' Opposition ("Vera  
9 Declaration") ¶ 3, Ex. 1.) [REDACTED]

10 [REDACTED]  
11 [REDACTED] (*Id.* at Ex. 1.) [REDACTED]  
12 [REDACTED]  
13 [REDACTED] (*Id.* at 9.)

14 Consistent with the recommendation of the Truth and Reconciliation Panel, Deputy  
15 Mandoyan was rehired on December 28, 2018. Declaration of Esmeralda Ramirez ISO  
16 Respondents/Defendants' Opposition ("Ramirez Declaration") at ¶ 3, Ex. 1. Shortly thereafter, on  
17 January 22, 2019, Sheriff Villanueva appeared before the Los Angeles Sheriff Civilian Oversight  
18 Commission (a body created and appointed by the Board of Supervisors) to discuss the rehiring of  
19 Deputy Mandoyan. (Compl. ¶ 68.) Then again one week later, Sheriff Villanueva appeared  
20 before the full Board of Supervisors to answer questions related to Deputy Mandoyan. (Compl. ¶  
21 69.)

22 In addition to his hiring, Deputy Mandoyan and Sheriff Villanueva agreed to settle claims  
23 Deputy Mandoyan had brought against LASD and the County related to his original discharge.  
24 Declaration of Mary Wickham ISO Petitioner/Plaintiff County of Los Angeles' *Ex Parte*  
25 Application for Temporary Restraining Order and Order to Show Cause ("Wickham Decl."). Ex.  
26 A. The parties' agreement (the "Settlement Agreement") adopted the findings of the Truth and  
27 Reconciliation Panel regarding the allegations against Deputy Mandoyan and provided for full  
28 back pay and restoration of his position as a Deputy Sheriff Generalist. *Id.* at 6.

1 **III. ARGUMENT**

2 California courts examine two principal factors on an application for a provisional  
3 injunction: 1) the plaintiff's likelihood of success on the merits at trial, and 2) the balance of  
4 irreparable harm between the moving and responding parties. Both factors weigh heavily against  
5 the County's application here. Further, mandatory injunctions of the sort sought by the County  
6 here are rarely granted, are immediately stayed on appeal, and are subject to increased scrutiny.  
7 See Cal. Code Civ. Proc. §§ 904.1(a)(6), 916. "The granting of a mandatory injunction pending  
8 trial is not permitted except in extreme cases where the right thereto is clearly established."  
9 *Teachers Ins. & Annuity Association v. Furlotti*, 70 Cal. App. 4th 1487, 1493 (1999). In likely  
10 recognition of its inability to sustain this high burden here, the County speciously mischaracterizes  
11 the status quo as circumstances as they existed two and a half years ago, not the present as is  
12 appropriate. Each of these points are addressed briefly below.

13 **A. Sheriff Villanueva and LASD Are Likely to Prevail on The Merits**

14 California law is clear that an injunction will not issue unless it is reasonably probable that  
15 the moving party will prevail on the merits. *San Francisco Newspaper Printing Co., Inc. v.*  
16 *Superior Court (Miller)*, 170 Cal. App. 3d 428, 442 (1985); Cal. Code Civ. Proc. § 526(a)(1)  
17 (plaintiff seeking injunction must be "entitled" to the relief demanded). Here, the County cannot  
18 show it is entitled to prevail at all, let alone that its right to the relief sought is clearly established.

19 The County seeks to compel the termination of Deputy Mandoyan. In the first cause of  
20 action, the County seeks a writ of mandate because "Villanueva and [LASD] will continue to  
21 recognize Mandoyan as an employee of [LASD], and Mandoyan will continue to hold himself out  
22 as a Deputy Sheriff." (Compl. ¶ 96.) The second claim seeks declaratory relief invalidating the  
23 settlement agreement entered into between the Department and Deputy Mandoyan, so as to reverse  
24 the Deputy's reinstatement and the agreement to pay him back pay. (Compl. ¶¶ 99-100.)  
25 Similarly, the third cause of action seeks a judicial declaration that Deputy Mandoyan's  
26 employment with LASD is improper. (Compl. ¶¶ 104-06.) **The County cites no authority**  
27 **actually prohibiting Sheriff Villanueva from rehiring a former Deputy who was discharged by a**  
28 **predecessor Sheriff, however.**

1 California law is clear that the Sheriff is the person responsible for overseeing LASD's  
2 operations. *See, e.g., Brewster v. Shasta County* 275 F.3d 803, 812 (9th Cir. 2001) (The "Sheriff  
3 acts as a final policymaker for the County when investigating crime"); *Streit v. County of Los*  
4 *Angeles*, 236 F. 2d 552 (9th Cir. 2001); California Constitution Art. XI §§1, 4 (charter counties  
5 required to have elected Sheriff); California Government Code §§ 26600-26616 (duties of County  
6 Sheriffs). As noted above, the Board of Supervisors has acknowledged that personnel matters  
7 within the Department are the sole purview of the Sheriff. (Plaintiff's Request for Judicial Notice,  
8 Ex. 7.)

9 The County cites no legal prohibition on the rehiring of Deputy Mandoyan, because there  
10 is none. Deputy Mandoyan is a 16-year veteran of LASD. (Gross Decl. Ex. 1 at 6.) He graduated  
11 from the academy (some time ago), passed the civil service exam, does not have a felony (or any)  
12 conviction, and is POST-certified, therefore meeting the legal requirements for the position for  
13 which he was hired. *See e.g., California Government Code § 1029* (disqualifications for  
14 employment); California Code of Regulations § 1005 (POST-certification). There is no  
15 prohibition against the Sheriff hiring qualified personnel, and the County cannot point to any  
16 provision of law giving the Board of Supervisors authority to overrule the Sheriff's hiring or  
17 rehiring decisions.

18 **B. LASD And The Public Interest Will Be Harmed Far More If An Injunction Is**  
19 **Granted Than Will The County If The Application Is Denied**

20 The claimed irreparable harm identified by the County results from Deputy Mandoyan's  
21 "roaming the streets with a Department-issued badge uniform, badge and gun." Plaintiffs'  
22 Application for Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction  
23 ("TRO Application") at 22. In a classic bootstrap argument, the County refers to requirements  
24 that officers return their badges and guns after they are no longer actively employed as a peace  
25 officer. *Id.* (citing Cal. Penal Code §§ 830.10, 538d). (Of course, Deputy Mandoyan is not  
26 "roaming" the streets; he is on patrol under the ultimate supervision of Sheriff Villanueva and  
27 LASD.) No irreparable harm can be inferred from a Deputy Sheriff performing his duties.  
28



1           Ironically, the County also argues damage to the public trust as a result of Deputy  
2 Mandoyan's service. TRO Application at 23. The "evidence" cited by the County to support this  
3 "harm" is a letter from the ACLU of Southern California (with a number of other special interest  
4 groups listed underneath the ACLU's name). TRO Application at 23. In its letter, the ACLU and  
5 its affiliated special interest groups or individuals identify a series of requests it has for Sheriff  
6 Villanueva, including responses to unrelated issues such as violence in jails and immigration  
7 policies. Plaintiffs' Request for Judicial Notice, Ex. 9. A policy letter from an advocacy  
8 organization and its friendly special interest groups or individuals certainly does not speak for the  
9 "public" and does not evidence the "public trust." In any event, the County's showing on this  
10 claimed irreparable harm is entirely speculative and insufficient to warrant an injunction. See  
11 *Korean Philadelphia Presbyterian Church v. California Presbytery*, 77 Cal. App. 4th 1069, 1084  
12 (2000) ("An injunction cannot issue in a vacuum based on the proponents' fears about something  
13 that may happen in the future.").

14           Conversely, granting a restraining order compelling the termination of Deputy Mandoyan  
15 would undermine the Sheriff's authority to hire, deploy and supervise qualified, sworn peace  
16 officers and to oversee the operations of LASD as provided by California law and the County  
17 Charter. (And of course granting the TRO would also work irreparable harm on Deputy  
18 Mandoyan whose livelihood is earned as an LASD Deputy.) "Where, as here, the plaintiff seeks  
19 to enjoin public officers and agencies in the performance of their duties[,] the public interest *must*  
20 be considered. [Citation.]" *O'Connell v. Superior Court*, 141 Cal. App. 4th 1452, 1471 (2006).  
21 Here, the public interest will not be served by stripping a qualified Deputy of his job contrary to  
22 the decision of the Sheriff to rehire the Deputy in reliance on the recommendation of a panel that  
23 reviewed the Deputy's disciplinary record.

24           Notably, the County waited over two months to seek relief. In fact, a Principal Deputy  
25 County Counsel attended the Truth and Reconciliation Panel meeting on December 21, 2018  
26 where reinstatement of Deputy Mandoyan was recommended. (Vera Decl. ¶ 5.) Six weeks ago,  
27 on January 22, 2019, Los Angeles County's Sheriff Civilian Oversight Commission questioned  
28 Sheriff Villanueva in a public meeting regarding the rehiring of Deputy Mandoyan. (Compl. ¶

1 68.) Then again, on January 29, 2019, the Sheriff appeared before the Board of Supervisors  
2 regarding the same issue. (*Id.* at ¶ 69.) Meanwhile, Deputy Mandoyan has been performing his  
3 duties since being rehired on December 28, 2018. The County's delay disproves its assertions of  
4 irreparable harm.

5 **C. The Status Quo Will Be Maintained by Denying the Application**

6 The purpose of an injunction is to preserve the status quo pending trial on the merits. Cal.  
7 Prac. Guide Civ. Pro. Before Trial Ch. 9(II)-A (The purpose of a TRO "is to preserve the status  
8 quo, or prevent irreparable harm pending the hearing of an application for preliminary injunction  
9 on notice."). Deputy Mandoyan is currently an active LASD Deputy working patrol. TRO  
10 Application at 15. The status quo thus militates in favor of rejecting Plaintiff's application for a  
11 mandatory injunction removing Deputy Mandoyan.

12 "Status quo" is Latin for the "present, currently existing state of affairs." Yet Plaintiff  
13 makes the bizarre assertion – without any authority whatsoever – that the status quo here should  
14 be measured not in the present but as of two and a half years ago! TRO Application at 23.  
15 Plaintiff would thus have the Court ignore all of the intervening events—the election, the  
16 determination of the Truth and Reconciliation Panel, the recommendation and decision that  
17 Deputy Mandoyan be rehired—and go back to September 2016. Courts can and should reject  
18 definitions of the status quo that ignore the current state of affairs in favor of historical facts that  
19 support litigation positions. *O'Connell*, 141 Cal. App. 4th at 1472 (Overturning preliminary  
20 injunction "premised on [plaintiffs'] definition of the status quo as the historical practice of  
21 granting students diplomas [which] fail[ed] to acknowledge that long before th[e] litigation was  
22 filed, this historical practice had ceased to be the *current* status quo.") The Court should reject the  
23 County's sleight of hand attempt to convert its request for a mandatory injunction into a  
24 prohibitory injunction by artificially redirecting the status quo from the present to years ago.

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**IV. CONCLUSION**

For the foregoing reasons, Sheriff Villanueva and LASD respectfully request that Plaintiffs' Application For Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction be denied in its entirety.

DATED: March 6, 2019

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP



By \_\_\_\_\_  
Steven G. Madison  
Attorneys for Sheriff Alex Villanueva and  
Los Angeles County Sheriff's Department

**Exempt from Filing Fee  
Government Code § 6103**

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 14 Los Angeles County Sheriff's Department

15  
 16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 17 COUNTY OF LOS ANGELES  
 18 CENTRAL DISTRICT

19 COUNTY OF LOS ANGELES,  
 20  
 21 Petitioner/Plaintiff,  
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24 ALEX VILLANUEVA, Sheriff of Los  
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 26 CAREN CARL MANDOYAN, an individual;  
 27 LOS ANGELES COUNTY SHERIFF'S  
 28 DEPARTMENT; and DOES 1 through 10,  
 inclusive,

Respondents/Defendants.

CASE NO. 19STCP00630

**DECLARATION OF STEVEN E. GROSS  
 IN SUPPORT OF  
 RESPONDENTS/DEFENDANTS ALEX  
 VILLANUEVA AND LOS ANGELES  
 COUNTY SHERIFF'S DEPARTMENT'S  
 OPPOSITION TO COUNTY OF LOS  
 ANGELES' APPLICATION FOR  
 TEMPORARY RESTRAINING ORDER  
 AND ORDER TO SHOW CAUSE RE  
 PRELIMINARY INJUNCTION**

[Filed Concurrently with Opposition to County  
 of Los Angeles' Application for Temporary  
 Restraining Order and Order to Show Cause re  
 Preliminary Injunction]

Date: March 6, 2019  
 Time: 8:30 a.m.  
 Dept.: 86


**PUBLIC - REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD**



1 LASD. I reviewed and approved the memorandum for transmission to the Panel for  
2 its use in reviewing the Mandoyan matter.

3 I declare under penalty of perjury under the laws of the State of California  
4 that the foregoing is true and correct.

5 Executed on this 5th day of March, 2019 at Los Angeles, California.  
6

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9 Steven E. Gross  
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INDEX OF EXHIBITS TO THE DECLARATION OF STEVEN E. GROSS

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Exhibit No.	Description	Pg. No.
A.	Memorandum dated December 13, 2018 from Roberta Granek, Lieutenant, Internal Affairs Bureau, to Steven E. Gross, Acting Chief, Professional Standards and Training Division, Subject: Analysis of Administrative Investigation IV 2383392 - Deputies Caren Mandoyan and [REDACTED]	6-16

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**EXHIBIT 1**



**EXHIBIT 1**

**FILED CONDITIONALLY UNDER SEAL**

**MAY NOT BE EXAMINED WITHOUT COURT ORDER**