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Los Angeles Superior Court

SEP 02 2009

John A. Clarke, Executive Officer/Clerk

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

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

**BARRIO VAN NUYS aka VAN NUYS aka BVN,
a criminal street gang sued as an unincorporated
association; DOES 1 through 500, inclusive;**

Defendants.

**Case No.: BC413147
(Unlimited Civil Case)**

~~PROPOSED~~ 
**JUDGMENT GRANTING
PERMANENT INJUNCTION**

**Assigned for all purposes to the
Honorable William F. Fahey, Dept. 78**

**Trial Date: Not Yet Set
Case Filed: May 6, 2009**

Plaintiff, the People of the State of California, acting by and through Carmen A. Trutanich, the City Attorney of Los Angeles("the People"), applied for a permanent injunction to abate a public nuisance in the Barrio Van Nuys Safety Zone (hereinafter "Safety Zone," as depicted in the map included as Exhibit 1), located in the City of Los Angeles and bounded by the route starting in the south at Burbank Boulevard and Woodman Avenue, continuing west on Burbank Boulevard to the 405 Freeway, north on the 405 Freeway to Sherman Way, east on Sherman Way to Woodman Avenue, and then south on Woodman Avenue to the starting point at Burbank Boulevard and Woodman Avenue, but does not include any portion of the 405 Freeways.

After due consideration of all documents filed by the People in this action, including all declarations, plaintiff's memorandum of points and authorities and attached exhibits, and consideration

1 of the precedent of *People ex rel. Gallo v. Acuna*, 14 Cal.4th 1090 (1997), *cert. denied* 521 U.S. 1121
2 (1997); *People v. Colonia Chiques*, 156 Cal.App.4th 31 (2007); *People v. Englebrecht*, 88 Cal.App.4th
3 1236 (2001); *In re Englebrecht*, 67 Cal.App.4th 486 (1998), and other evidence submitted, this Court
4 makes the following findings, by clear and convincing evidence:

- 5 1. Service on Defendant Barrio Van Nuys is proper;
- 6 2. Defendant Barrio Van Nuys is an unincorporated association as defined in Code of Civil
7 Procedure section 369.5;
- 8 3. Defendant Barrio Van Nuys is a “criminal street gang” as defined in Penal Code section
9 186.22, subdivision (f) (“Street Terrorism and Prevention Act”);
- 10 4. Defendant Barrio Van Nuys is a “gang” as defined for the purposes of a gang abatement
11 injunction in *Englebrecht, supra*, 88 Cal.App.4th at 1258;
- 12 5. A public nuisance, pursuant to Civil Code Sections 3479 and 3480, which a gang
13 injunction may properly abate, exists in the Safety Zone; and
- 14 6. The conduct and activities of Defendant Barrio Van Nuys, acting through its members,
15 individually and collectively have caused and continue to cause the public nuisance that
16 exists in the Safety Zone.

17 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED:**

18 1. That Defendant Barrio Van Nuys, and its members, are enjoined and restrained from
19 engaging in or performing, directly or indirectly, any of the following activities in the Safety Zone (as
20 depicted in the map included as Exhibit 1), located in the City of Los Angeles and bounded by the route
21 starting in the south at Burbank Boulevard and Woodman Avenue, continuing west on Burbank
22 Boulevard to the 405 Freeway, north on the 405 Freeway to Sherman Way, east on Sherman Way to
23 Woodman Avenue, and then south on Woodman Avenue to the starting point at Burbank Boulevard and
24 Woodman Avenue, but does not include any portion of the 405 Freeways.:

25 a. **Do Not Associate:** Standing, sitting, walking, driving, riding, gathering or
26 appearing anywhere in public view or in any place accessible to the public, with any known member of
27 the Barrio Van Nuys gang. This prohibition shall not apply in the following situations: (1) when an
28 enjoined person has been granted a Hardship Exemption (per paragraph 2 below); or (2) when an

1 enjoined person is inside a school attending class or conducting school business; or (3) when an enjoined
2 person is inside a church or religious institution for purposes of worship. This prohibition against
3 association shall apply to all claims or methods of travel to or from any of the aforementioned
4 permissible locations;

5 b. **No Intimidation:** Confronting, intimidating, annoying, harassing, threatening,
6 challenging, provoking, assaulting or battering any person who lives in, works in, visits or passes
7 through the Safety Zone or any person known to be a witness to, or victim of, any Barrio Van Nuys gang
8 activity or any person known to have complained about any Barrio Van Nuys gang activity;

9 c. **No Firearms, Imitation Firearms, Ammunition, Dangerous or Illegal**
10 **Weapons:** While in public view or any place accessible to the public, (1) possessing any firearm,
11 imitation firearm, ammunition, dangerous weapon (defined as any fixed or folding knife with a blade
12 two inches or longer) or illegal weapon as defined in Penal Code section 12020, whether or not
13 concealed, (2) knowingly remaining in the presence of anyone who is in possession of such firearm,
14 imitation firearm, ammunition, dangerous or illegal weapon, or (3) knowingly remaining in the presence
15 of such firearm, imitation firearm, ammunition, or dangerous or illegal weapon;

16 d. **No Lookouts:** Acting as a lookout by whistling, yelling, or otherwise signaling,
17 by any means, including, but not limited to, hand signals, walkie-talkies, or cellular telephones, to warn
18 another person engaged in unlawful or nuisance activity of the approach of law enforcement officers, or
19 soliciting, encouraging, coercing or employing another person to act as such lookout;

20 e. **No Graffiti or Graffiti Tools:** Damaging, defacing, marking, painting or in
21 anyway applying graffiti to any public or private property of another, or possessing any spray paint
22 container, felt tip marker or other graffiti tool as defined in Penal Code sections 594.2, which can be
23 used to paint, spray paint, etch, mark, draw or otherwise apply graffiti;

24 f. **Stay Away from Drugs:** Without a prescription, (1) selling, possessing, or using
25 any controlled substance or any related paraphernalia, including but not limited to rolling papers and
26 pipes used for illegal drug use, (2) knowingly remaining in the presence of anyone selling, possessing,
27 or using any controlled substance or such related paraphernalia, or (3) knowingly remaining in the
28 presence of any controlled substance or such related paraphernalia;

1 g. **Stay Away from Alcohol:** While in public view or anyplace accessible to the
2 public, except on properly licensed premises, (1) possessing an open container of an alcoholic beverage,
3 (2) knowingly remaining in the presence of anyone possessing an open container of an alcoholic
4 beverage, or (3) knowingly remaining in the presence of an open container of an alcoholic beverage;

5 h. **No Trespassing:** Being present in or on the property of another person that is not
6 open to the general public, except (1) when carrying prior written consent of the owner, owner's agent
7 or person in lawful possession of the aforementioned property on his or her person, or (2) in the
8 presence of and with the voluntary consent of the owner, owner's agent or person in lawful possession
9 of the property;

10 i. **Gang-Free School Zone:** Entering or remaining in or on the school grounds of
11 Van Nuys High School, located at 6535 Cedros Avenue, City of Los Angeles, except: (1) during school
12 hours or during a school sponsored event while a student enrolled at that school; (2) as a parent or
13 guardian while picking up or dropping off a student who is enrolled in that school; or (3) with written
14 permission for entry from the school principal;

15 j. **Do Not Obstruct, Resist, or Delay any Peace Officer:** Knowingly, obstructing,
16 resisting, or delaying any peace officer when that peace officer is effectuating or attempting to effectuate
17 a lawful detention or arrest. This includes, but is not limited to, running from a peace officer in an
18 attempt to evade a lawful detention or arrest and providing false identifying information to any peace
19 officer in an attempt to evade proper identification by the peace officer;

20 k. **Obey Curfew:** Being present in public view, in a public place or in any place
21 accessible to the public, between the hours of 10:00 p.m. on any day and 5:00 a.m. of the following day.
22 This prohibition shall not apply in the following situations: (1) when an enjoined person has been
23 granted a Hardship Exemption (per paragraph 2 below); or (2) when an enjoined person is going directly
24 to, returning directly from, or actively engaged in a legitimate business, trade, profession or occupation
25 requiring the enjoined person's presence; or (3) when an enjoined person is going directly to, returning
26 directly from, or actively engaged in a lawful, non-gang related entertainment event; or (4) when an
27 enjoined person is actively involved in a legitimate emergency, such as a fire, natural disaster,
28 automobile accident or other situation that requires immediate action to prevent serious bodily injury or

1 loss of life. For purposes of this provision, “entertainment event” means an amusement activity that
2 occurs at a commercial establishment and includes only events for which admission is charged, such as
3 movies, plays, public performances or sporting events; and

4 1. **Obey All Laws:** Failing to obey all laws, including (1) those that prohibit
5 violence or threatened violence, including, but not limited to murder, intimidation, rape, robbery by
6 force or fear, assault or battery, (2) those that prohibit interference with the property rights of others,
7 including, but not limited to trespass, theft, vandalism, or the driving or taking of a vehicle without the
8 owner’s consent, (3) those that prohibit the commission of acts that create a nuisance, including, but not
9 limited to, the illegal sale of controlled substances, blocking the sidewalk and street and violations of the
10 Los Angeles Municipal Code, and (4) any lawful orders of the Court;

11 2. That this Order includes a **Hardship Exemption**, by which any member of Defendant
12 Barrio Van Nuys may receive a specific exemption from portions of the “Do not associate” and/or the
13 “Obey curfew” provisions pursuant to the following process:

14 a. A written request for such exemption is to be made to the Los Angeles City
15 Attorney’s Office, c/o Gang Division Re: Hardship Exemption, 200 North Main Street, 966 City Hall
16 East, Los Angeles, CA 90012;

17 b. The request must be specific in that it must request permission to associate with
18 only individual(s) identified by name and date of birth, at specific times and in specific locations, when
19 such association is reasonably necessary for some legitimate purpose. Permission may also be sought to
20 be in a specific public place between 10:00 p.m. and 5:00 a.m., when it is reasonably necessary for some
21 legitimate purpose to be in that particular place at a particular time during those hours. The legitimate
22 purpose must be articulated in the request; and

23 c. If such request is made and not granted within ten (10) days after it is delivered or
24 fifteen (15) days after it is mailed, the enjoined party may apply to this Court for such an exemption by
25 noticed motion.

26 d. If such request is granted, written proof of the Hardship Exemption must be
27 carried by the enjoined party and shall be presented to any peace officer upon request.

28 3. That this Order includes an **Opt-Out Provision**, by which any member of Defendant

1 Barrio Van Nuys, or any person who has been served with this injunction (“Served Person”) may move
2 this Court under this Opt-Out Provision for an order that this injunction is not enforceable against
3 him/her, which Plaintiff agrees shall be granted if upon hearing the motion it is shown there is not clear
4 and convincing evidence that the Served Person is currently a member of Defendant Barrio Van Nuys.
5 Such an order is to be without prejudice, each side shall bear its own costs and fees, and Served Person’s
6 motion must satisfy each of the following requirements:

7 a. **Proper Notice:** A motion under this Opt-Out Provision shall be made on proper
8 notice, properly served on Plaintiff’s counsel, and shall not be made on shortened time; and

9 b. **No Longer a Gang Member:** Served Person must file a noticed motion with this
10 Court, and said motion must be supported by Served Person’s declaration, made under penalty of
11 perjury, that Served Person is not or is no longer a member of Defendant Barrio Van Nuys gang, and
12 Served Person has not engaged in any gang activity or any criminal activity for a period of three years
13 immediately preceding the filing of said motion; and

14 c. **No Effect in Other Proceedings:** This provision and any orders resulting from it
15 shall not be admissible in any civil or criminal action, and cannot be used for or against a Served Person
16 for any purpose whatsoever, other than a civil or criminal contempt proceeding brought for violation of
17 this judgment. Nor shall it be a defense to any civil or criminal contempt charge that the Served Person
18 was eligible to apply for an order under this provision;

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1 4. That no person shall be subject to the provisions of this Order unless that person has been
2 personally served with this Order;

WILLIAM F. FAHEY


3
4 DATED: _____

9/2/09

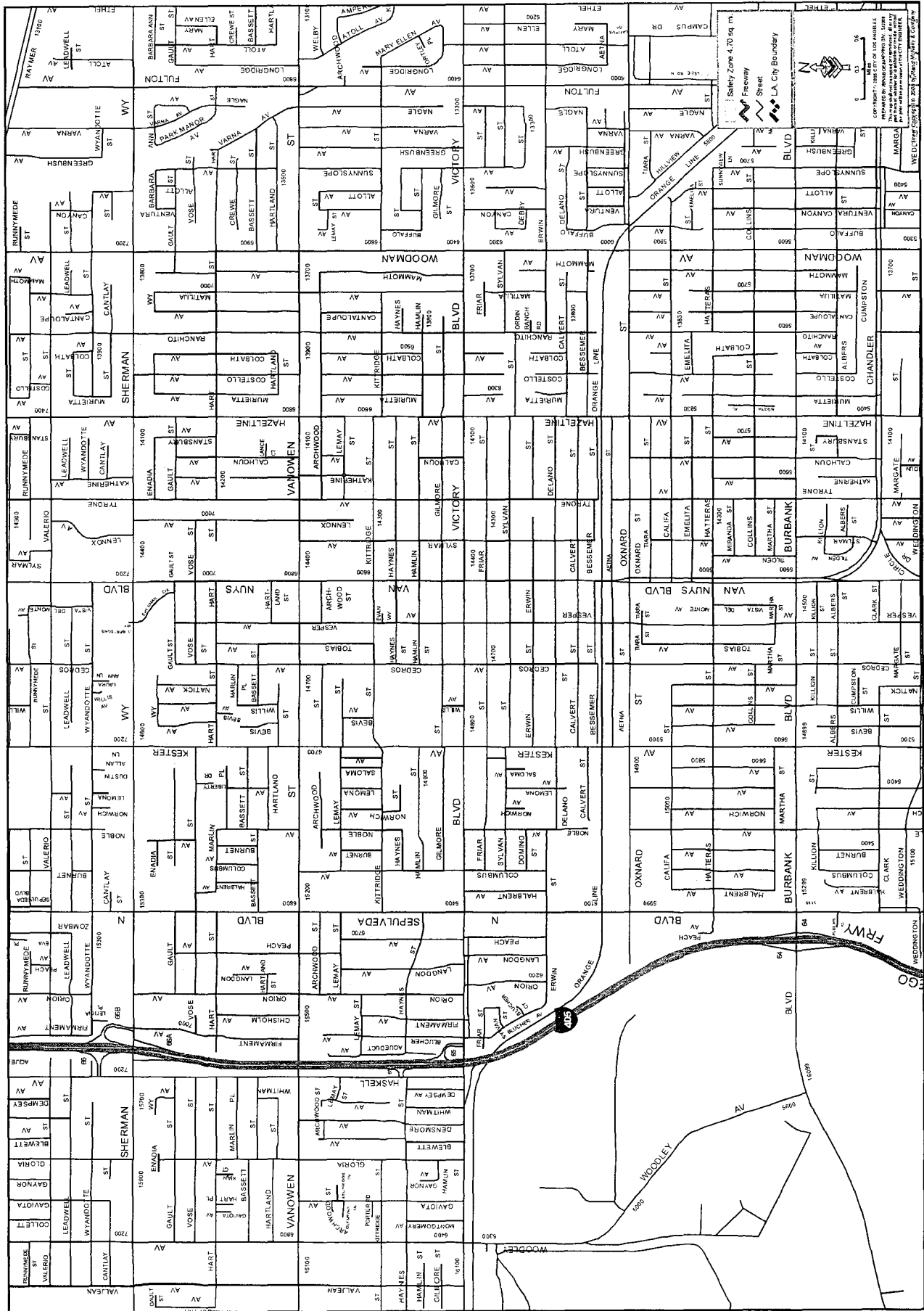
Judge of the Superior Court

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6 Submitted on 8/13/09

7 CARMEN A. TRUTANICH, CITY ATTORNEY
8 Bruce Riordan, Director, Gang Division
9 Travis Austin, Deputy City Attorney (Bar #212116)
10 200 N. Main Street, 800 City Hall East
11 Los Angeles, CA 90012
12 (213) 978-4090; FAX (213) 978-8717

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By: Travis Austin
14 Deputy City Attorney, Gang Division

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People of the State of California



LADINE ENGINEERING
 1000 W. Washington Blvd., Los Angeles, CA 90015
 Telephone: (213) 475-1000
 Fax: (213) 475-1001
 E-mail: ceo@cityofla.org

Barrio Van Nuys Safety Zone

Office of the City Attorney
 City of Los Angeles

