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15 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

18 LOS ANGELES CATHOLIC
19 WORKER, AN
20 UNINCORPORATED
21 ASSOCIATION; CANGRESS, A
22 NON-PROFIT CORPORATION;
23 HARRY JAMES JONES, LOUIS
24 GRADY, LLOYD HINKLE,
25 WALTER SHOAF, INDIVIDUALS,

26 Plaintiff(s),

27 vs.

28 LOS ANGELES DOWNTOWN
INDUSTRIAL DISTRICT
BUSINESS IMPROVEMENT
DISTRICT, CENTRAL CITY EAST
ASSOCIATION, INC., CITY OF
LOS ANGELES; DOES 1 -10,

Defendant(s).

CASE NO. CV 14-07344 PSG (AJW)

SUPPLEMENTAL DECLARATION
OF SHAYLA MYERS IN SUPPORT
OF PLAINTIFFS’ EX PARTE
APPLICATION FOR CONTEMPT
AND SANCTIONS

Discovery Cut-off: March 4, 2016
Trial: June 21, 2016, 9:00 a.m.

1 1. I am an attorney at the Legal Aid Foundation of Los Angeles
2 and a lead attorney in this litigation. If called to testify, I could testify
3 accurately to the facts herein.

4 2. I am producing this supplemental declaration to update the
5 Court about facts which Plaintiffs have discovered since the ex parte motion
6 to hold the City in contempt was filed. In particular, Plaintiffs have
7 discovered that certain representations by the City of Los Angeles appear to
8 be inaccurate. While the City of Los Angeles has maintained since July
9 2015 that it cannot do a global search of emails in the possession of the
10 LAPD, Plaintiffs discovered at a deposition of the Person Most
11 Knowledgeable on behalf of the City on February 22, 2016 that the LAPD
12 employs e-discovery software that allows the LAPD to search all emails sent
13 and received by LAPD officers since March 2013, that the software is
14 designed to facilitate global keyword searches, and that when the LAPD has
15 done such a search in the past, it was completed within a week.

16 3. Plaintiffs propounded discovery in July 2015, seeking email
17 communications from and between LAPD officers on issues germane to this
18 litigation, including emails between LAPD officers and the Central City East
19 Association. The City refused to produce any emails, and Plaintiffs were
20 forced to file a motion to compel. At the hearing on the motion to compel,
21 the City agreed to provide documents responsive to our request, including
22 email communications sent by and received by the LAPD. This Court
23 ordered the production of all documents within 10 days, or by January 21,
24 2016.

25 4. Since that time, the City has produced emails from only
26 approximately 8 individuals within the LAPD from the time period March
27 2013 to the present, has provided no emails sent or received prior to March
28

1 2013, and has not provided Plaintiffs any information about when Plaintiffs
2 will receive any additional emails.

3 5. As discussed in my Declaration in Support of Plaintiffs' Ex
4 Parte Application for Contempt and Sanctions, Dkt. # 87-1, the City
5 Attorney's office has repeatedly represented that the LAPD cannot do key
6 word searches for emails, and that it cannot do a global search for emails
7 across all of LAPD's emails. *See* Myers Decl., ¶¶ 4, 11, 13, 15.

8 6. On January 22, 2016, I informed Mr. Whitaker that I was
9 counsel on another case against the City of Los Angeles regarding a
10 California Public Records Act request to the Los Angeles Police
11 Department, and in that case, the LAPD had done a global search of all
12 LAPD personnel, using key words to identify and produce responsive
13 documents from March 2013 to the present. He disagreed that such a search
14 was possible, and insisted that IT needed officer names. He also insisted
15 that LAPD could not do a key word search, but instead, all emails from each
16 individual would have to be reviewed to determine if they were responsive.

17 7. In his opposition to this Motion, Mr. Whitaker represented to
18 this Court that

19 I have been informed by the LAPD's IT department that in order to
20 search emails, they need the email addresses of each individual LAPD
21 officer. With the help of our investigator, we have tried to identify
22 each of the individual police officers of which there are over 400,
23 assigned to the Central Division within the relevant timeframe. The
24 LAPD's IT department requires us to manually match up each officer
25 name with their serial number, as that is how officers are identified in
26 their email addresses. That process is and has been ongoing.

27 Declaration of Ronald S. Whitaker in Opposition to Plaintiffs' Ex Parte
28 Application for Contempt and Sanctions, ¶ 7.

1 8. On February 22, 2016, I deposed the Person Most
2 Knowledgeable for the City of Los Angeles about the search capabilities and
3 email retention policies of the Los Angeles Police Department. Mr. Leshon
4 Frierson testified for the City of Los Angeles. According to Mr. Frierson:

- 5 a. The LAPD has the capacity to do a global search of all
6 emails sent by and received by LAPD since March 2013
7 using key words; however, the City Attorney's office has
8 never requested that the LAPD do a search for responsive
9 emails in this case.
- 10 b. The LAPD has an email management software that it has
11 used since March 2013, for the primary purpose of archiving
12 emails and making it easy to produce emails in litigation and
13 in response to requests for production. A true and correct
14 copy of the description of the e-discovery software, Retain,
15 which is used by the LAPD, is attached as Exhibit A.
- 16 c. The software is an add-on to the LAPD's email software,
17 Novell Groupwise 2012. The LAPD began using the
18 software in March 2013 in response to Mr. Frierson's
19 repeated requests since 2008 that the City obtain software
20 that would allow the LAPD to more easily and better
21 respond to discovery requests and CPRA requests for
22 emails.
- 23 d. Since 2013, the Los Angeles Police Department has spent
24 approximately \$25,000 per year on this e-discovery
25 management system.
- 26 e. Using Retain, LAPD is able to do a global searches of all
27 emails sent by and received by the LAPD since March 2013,
28 using key words. Easy archiving and searching of emails for

1 litigation and compliance is the main purpose of this
2 software.

- 3 f. Mr. Frierson has never done a global search of emails and
4 does not know how long such a search would take.
5 However, in or around July or August 2015, a Systems
6 Analyst for the LAPD who he supervises conducted a global
7 search of all emails within the LAPD for emails using key
8 words. The search was in response to litigation regarding
9 the LAPD's failure to produce documents responsive to a
10 California Public Records Act request. The analyst took
11 only about a week to conduct the search, which she did in
12 addition to performing her other tasks as a system analyst.
13 Performing email searches is only approximately 10% of the
14 analyst's job. The search did not create any problems for
15 the IT department or the LAPD's email capabilities.
- 16 g. Since at least January 11, 2016, when this Court issued its
17 first order, there has been no reason why the LAPD could
18 not conduct a global search of all emails sent by or received
19 from LAPD personnel since March 2013 using key words to
20 identify responsive documents.
- 21 h. Emails sent before March 2013 are not available in this
22 email system because the LAPD IT department decided not
23 to archive emails going back to 2012 when the system was
24 implemented in 2013. These emails are available on the
25 LAPD's backup archive.
- 26 i. When the LAPD began using Retain in 2013, the LAPD
27 could have moved over emails from 2012 into its new e-
28 discovery system; however, the IT department chose not to

1 transfer over these emails because the backup system used
2 by the LAPD was sufficient to archive the emails prior to
3 March 2013.

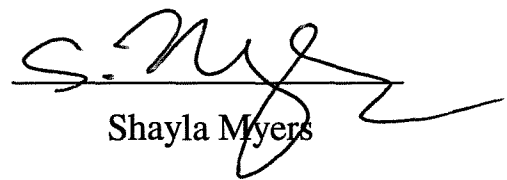
4 j. While mails from prior to March 2013 must be restored
5 from the backup and do require individual email addresses,
6 the LAPD does searches and produces emails from prior to
7 March 2013 that exist only on the backups “on a fairly
8 regular basis,” in response to discovery requests, CPRA
9 requests, and internal investigations.

10 k. The LAPD IT department has not been asked to begin
11 searching for emails from the back up system in this case.

12 9. Since the City produced documents from the City Clerk’s office
13 prior to the filing of this ex parte application, the City has not produced any
14 additional responsive documents. Nor has the City indicated when it will
15 complete its production or when it will produce any additional documents.
16 The City has also not responded to our letter regarding the use of search
17 terms or informed us whether it has begun searching for responsive emails
18 through the City’s email system.

19
20 I swear under penalty of perjury that the foregoing is true and correct.

21 Executed this 23rd day of February at Los Angeles, California.

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23 
24 Shayla Myers
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