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**Attorneys for Defendant CITY OF LOS ANGELES**

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

CARL MITCHELL, MICHEAL  
ESCOBEDO, SALVADOR ROQUE,  
JUDY COLEMAN, as individuals; LOS  
ANGELES CATHOLIC WORKER,  
CANGRESS, as organizations,

PLAINTIFFS,

v.

CITY OF LOS ANGELES, a municipal  
entity; LT. ANDREW MATHIS, SGT.  
HAMER and SGT. RICHTER, in their  
individual and official capacities,

DEFENDANTS.

**CASE NO. CV16-01750 SJO (JPRx)**  
*[Assigned to the Honorable S. James  
Otero, Courtroom 1]*

**CITY OF LOS ANGELES’  
OPPOSITION TO PLAINTIFFS’ EX  
PARTE APPLICATION TO STRIKE  
AND/OR SEAL PUBLICLY FILED  
DOCUMENTS**

**Date: none**  
**Time: none**  
**Place: Courtroom 1**

**COMES NOW** Defendant, City of Los Angeles, and opposes the Plaintiffs’  
request to strike and/or seal publicly filed documents, on the following grounds.

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## INTRODUCTION

Plaintiffs have misconstrued existing authority to find a basis for striking or sealing videos, and those persons depicted in the videos do not come close to meeting the recognized legal definition of “informant.” Richard Roque and Judy Coleman approached officers on a public street or in a police station and reported crimes. They are no more “informants” than someone who calls a police station to report a crime.

As explained below, the authority Plaintiffs cite as grounds for their application either do not apply, or do not explain how those depicted in the videos should have had a reasonable expectation of privacy either on the public street or the police station.

## ARGUMENT

### **I. Plaintiffs did not have a reasonable expectation of privacy in their conversations on a public street or in a police station.**

Courts have long recognized that anything a person “knowingly exposes to the public, even in his own home or office,” is not subject to a reasonable expectation of privacy. *See U.S. v. Choate*, 576 F.2d 165, 175 (9th Cir. 1978).

Both videos challenged in this *ex parte* were recorded in public forums where Plaintiffs did not have a reasonable expectation of privacy. Notably, Plaintiffs provide no authority establishing that they even had reasonable expectations of privacy in these situations, because those expectations did not exist. A sentence about Coleman’s lowered voice is insufficient. In Coleman’s case, Lieutenant Mathes was wearing his bodycam in plain sight, and at no time in the depicted videos did Coleman request to have the conversation be private, nor did any party to the conversation attempt to move the conversation to a more private location. Plaintiffs have failed to meet their burden demonstrating some air of privacy.

The case law Plaintiffs cite does not support a contrary finding. In the *Rauda v. City of L.A.* case Plaintiffs cite, the police were accused of “*falsely* disclosing to

1 Vineland Boyz gang member Jose Ledesma ... that Martha Puebla had identified him  
2 in a six-pack, photo lineup as the killer of Christian Vargas ... during an interrogation  
3 in December 2002.” 2010 U.S. Dist. LEXIS 138837 at 1-2 (C.D. Cal. 2010).

4 Similarly, the *U.S. v. Abuhamra* case concerns the informant privilege, which does  
5 not apply here. 389 F.3d 309, 324 (2d Cir. 2004).

6 The City did not falsely accuse either Roque or Coleman. Each actually is  
7 identifying persons committing crimes, and they are doing it knowingly on video.  
8 The City did not seek information or help in prosecution from either Roque or  
9 Coleman; each voluntarily gave information and asked for nothing in return. And as  
10 a further distinction from *Rauda*, the City did not provide information to the people  
11 being informed on of what the plaintiffs have done. The City filed a document in  
12 federal court which responds to the issues raised in the TRO; the statements the  
13 Plaintiffs find offensive are merely part of the overall exhibit which responds.

14 Accordingly, denial of the Plaintiffs’ ex parte application is proper.

15 **II. The videos are not readily accessible by the public and do not pose the**  
16 **kind of danger to safety Plaintiffs claim.**

17 The City has not filed, but lodged, the challenged videos with the Court. It is  
18 the City’s understanding of the district court’s procedures that the videos can only be  
19 accessed through special motion. They are not readily available on the Court’s  
20 website, through a simple Google search, or any part of the internet at large for  
21 anybody from the public to access. The City fails to see how Coleman or Roque  
22 could be facing the level of public endangerment that Plaintiffs claim.

23 For this additional reason, the court should deny the ex parte application.

24 **CONCLUSION**

25 In the declarations attached to their application for a TRO, Plaintiffs very  
26 publicly accused the City of wrongdoing. Absent authority otherwise, the City’s  
27 response should not be public also. The City respectfully requests that this Court  
28 deny the Plaintiffs’ Ex Parte Application to Strike and/or Seal Publicly Filed

1 Documents.

2 DATED: April 7, 2016

MICHAEL N. FEUER, City Attorney  
THOMAS H. PETERS, Chief Asst. City Attorney  
ERIC BROWN, Deputy City Attorney

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By:           /s/ Eric Brown            
ERIC BROWN  
Deputy City Attorney

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Attorneys for Defendants  
CITY OF LOS ANGELES

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