

Jonathan Che Gettleman (SBN 243560)
Law Office of Jonathan Che Gettleman
223 River Street, Suite D
Santa Cruz, CA 95060
tel: (831) 427-2658
fax: (831) 515-5228

Attorney for ANNA GALEEN
RICHADSON

Mark Briscoe (SBN 248139)
Biggam, Christensen, & Minsloff
2130 North Pacific Ave
Santa Cruz, CA 95060
(831) 429 1311

Attorney for MIGUEL ANGEL DELEON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ

PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. John G. Barisone, City Attorney for the
City of Santa Cruz,
Plaintiff

v.

ANNA GALEEN RICHARDSON and
MIGUEL ANGEL DELEON,
Defendants

Case No: CV 162525
[Consolidated with Case No. 162526]

DEFENDANTS' JOINT
DECLARATION OF COUNSEL IN
SUPPORT OF THEIR OPPOSITION
TO PLAINTIFF'S MOTION FOR
SANCTIONS

Honorable Timothy Volkmann
Date: March 19, 2010
Time: 9:00 am
Dept. 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **DECLARATION OF JONATHAN GETTLEMAN AND MARK BRISCOE IN SUPPORT**
2 **OF DEFENDANT’S JOINT OPPOSITION TO PLAINTIFF’S MOTION FOR**
3 **SANCTIONS/ ANSWER TO DECLARATION OF JOHN G. BARISONE, CITY**
4 **ATTORNEY, IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW**
5 **CAUSE RE CONTEMPT.**

I, Jonathan Che Gettleman and Mark Briscoe, declare as follows:

- 6 1. Admitted, generally.¹ Denied specifically as to personal knowledge as it relates to
7 allegations made in items 5 through 8.
- 8 2. Admitted.
- 9 3. Admitted as to service on attorneys.
- 10 4. Denied. Objection as to sufficiency of the charging instrument. Objection as to
11 hearsay. Foundation.
- 12 5. Denied. Objection as to sufficiency of the charging instrument. Objection as to
13 hearsay. Foundation.
- 14 6. Denied. Objection as to sufficiency of the charging instrument. Objection as to
15 hearsay. Foundation.
- 16 7. Denied. Objection as to sufficiency of the charging instrument. Objection as to
17 hearsay. Foundation.
- 18 8. Denied. Objection as to sufficiency of the charging instrument. Objection as to
19 hearsay. Foundation.

20 General Objections:

21 In addition to the specific objections stated above Defendants object to any attempt to
22 prove elements of the contempt charge through the content of declarations developed for the
23 purpose of establishing contempt or police reports as testimonial hearsay under *Davis v.*
24 *Washington* (2006) 126 S.Ct. 2266.

25 Further, Mr. Barisone is the person asserting personal knowledge of facts that constitute
26 the basis for contempt through his accusatory affidavit which serves as the initial pleading in a

27
28 ¹ The itemized number corresponds to the itemized paragraph number in Mr. Barisone’s
affidavit.

1 civil contempt action. Therefore, it appears through this affidavit that Mr. Barisone has made
2 himself a witness against Defendants. Defendants, therefore, reserve the right to confront Mr.
3 Barisone at the March 19, 2010 hearing as he is the primary witness against them. This is
4 particularly true for paragraph 4 in his declaration (ability to comply with the underlying order)
5 which is an element of contempt and not otherwise factually supported in Mr. Barisone's
6 affidavit.

7 Further, while Mr. Barisone did indicate that several officer's wrote reports and
8 declarations and that those declarations accompany his affidavit, nowhere did Mr. Barisone
9 indicate that those reports and delcarations were specifically incorporated into his charging
10 instrument.

11 I declare that the foregoing is true and correct under penalty of perjury pursuant to the
12 laws of the State of California. Executed this 11th day of March 2009 at Santa Cruz.

13
14 _____/s/_____
15 Jonathan Che Gettleman, SBN # 24356

16
17 _____/s/_____
18 Mark Briscoe, SBN # 248139