

Exhibit C Exhibits

EXHIBIT 1

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

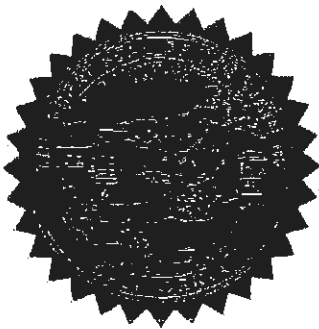
The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 19th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 2



SANDRA SHEWRY, MPH, MSW
Acting Director
ERICA S. PAN, MD, MPH
Acting State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

**Regional Stay At Home Order
12/03/2020**

Upon assessment of the recent, unprecedented rise in the rate of increase in COVID-19 cases, hospitalizations, and test positivity rates across California, the California Department of Public Health (CDPH) is taking immediate actions to prevent the spread of the virus.

The State, like the nation, continues to record an unprecedented surge in the level of community spread of COVID-19. California implemented an accelerated application of the Blueprint Framework metrics on November 16 and a limited Stay at Home Order issued on November 19. However, in the interim, the number of new cases per day has increased by over 112%, (from 8,743 to 18,588) and the rate of rise of new cases per day continues to increase dramatically. The number of new hospital admissions has increased from 777 on November 15, to 1,651 on December 2, and because of the lag between case identification and hospitalizations, we can only expect these numbers to increase.

Current projections show that without additional intervention to slow the spread of COVID-19, the number of available adult Intensive Care Unit (ICU) beds in the State of California will be at capacity in mid-December. This is a sign that the rate of rise in cases, if it continues, is at risk of overwhelming the ability of California hospitals to deliver healthcare to its residents suffering from COVID-19 and from other illnesses requiring hospital care. ICU beds are a critical resource for individuals who need the most advanced support and care and the ability to add additional ICU capacity is limited by the lack of available ICU nurses and physicians as a result of the nationwide surge in hospitalizations and ICU admissions.

Because the rate of increases in new cases continues to escalate and threatens to overwhelm the state's hospital system, further aggressive action is necessary to respond to the quickly evolving situation. While vaccines are promising future interventions, they are not available to address the immediate risks to healthcare delivery in the current surge. The immediate aggressive institution of additional non-pharmaceutical public health interventions is critical to avoid further overwhelming hospitals and to prevent the need to ration care.

NOW, THEREFORE, I, as Acting State Public Health Officer of the State of California, order:

1. CDPH will evaluate public health based on Regions, responsive to hospital capacity for persons resident in those Regions.
2. CDPH will evaluate the adult ICU bed capacity for each Region and identify on covid19.ca.gov any Regions for which that capacity is less than 15%. When that capacity is less than 15%, the following terms (the Terms of this Order) will apply.
 - a. All gatherings with members of other households are prohibited in the Region except as expressly permitted herein.
 - b. All individuals living in the Region shall stay home or at their place of residence except as necessary to conduct activities associated with the operation, maintenance, or usage of critical infrastructure,¹ as required by law, or as specifically permitted in this order.
 - c. Worship and political expression are permitted outdoors, consistent with existing guidance for those activities.
 - d. Critical infrastructure sectors may operate and must continue to modify operations pursuant to the applicable sector guidance.
 - e. Guidance related to schools remain in effect and unchanged. Accordingly, when this Order takes effect in a Region, schools that have previously reopened for in-person instruction may remain open, and schools may continue to bring students back for in-person instruction under the Elementary School Waiver Process or Cohorting Guidance.
 - f. In order to reduce congestion and the resulting increase in risk of transmission of COVID-19 in critical infrastructure retailers, all retailers may operate indoors at no more than 20% capacity and must follow the guidance for retailers. All access to retail must be strictly metered to ensure compliance with the limit on capacity. The sale of food, beverages, and alcohol for in-store consumption is prohibited.
 - g. To promote and protect the physical and mental well-being of people in California, outdoor recreation facilities may continue to operate. Those facilities may not sell food or drink for on-site consumption. Overnight stays at

¹ See <https://covid19.ca.gov/essential-workforce/> for full list of California's Critical Infrastructure workforce.

campgrounds are not permitted.

- h. Nothing in this Order prevents any number of persons from the same household from leaving their residence, lodging, or temporary accommodation, as long as they do not engage in any interaction with (or otherwise gather with) any number of persons from any other household, except as specifically permitted herein.
 - i. Terms (a) and (b) of this section do not apply to persons experiencing homelessness.
3. Except as otherwise required by law, no hotel or lodging entity in California shall accept or honor out of state reservations for non-essential travel, unless the reservation is for at least the minimum time period required for quarantine and the persons identified in the reservation will quarantine in the hotel or lodging entity until after that time period has expired.
4. This order shall take effect on December 5, 2020 at 1259pm PST.
5. For Regions where the adult ICU bed capacity falls below 15% after the effective date of this order, the Terms of this Order shall take effect 24 hours after that assessment.
6. The Terms of this Order shall remain in place for at least three weeks from the date the order takes effect in a Region and shall continue until CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%. Four-week adult ICU bed capacity projections will be made approximately twice a week, unless CDPH determines that public health conditions merit an alternate projection schedule. If after three weeks from the effective date of the Terms of this Order in a Region, CDPH's four-week projections of the Region's total available adult ICU bed capacity is greater than or equal to 15%, the Terms of this Order shall no longer apply to the Region
7. After the termination of the Terms of this Order in a Region, each county within the Region will be assigned to a tier based on the Blueprint for a Safer Economy as set out in my August 28, 2020 Order, and the County is subject to the restrictions of the Blueprint appropriate to that tier.
8. I will continue to monitor the epidemiological data and will modify this Regional Stay-at-Home Order as required by the evolving public health conditions. If I determine that it is necessary to change the Terms of this Order, or otherwise modify the Regional Stay-at-Home Order, these modifications will be posted at covid19.ca.gov.

9. When operative in a Region, the Terms of this Order supersede any conflicting terms in other CDPH orders, directives, or guidance. Specifically, for those Regions with ICU bed capacity triggering this order, the Terms of this Order shall supersede the State's Blueprint for a Safer Economy and all guidance (other than guidance for critical infrastructure sectors) during the operative period. In all Regions that are not subject to the restrictions in this order, the Blueprint for a Safer Economy and all guidance shall remain in effect.
10. This order is issued pursuant to Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120175, 120195 and 131080; EO N-60-20, N-25-20, and other authority provided for under the Emergency Services Act; and other applicable law.



Erica S. Pan, MD, MPH
Acting State Public Health Officer
California Department of Public Health

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Telephone: (949) 683-3460

5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 **DUNN ENTERPRISES, INC. DBA**
11 **ICETOWN, a California Corporation,**

12 **Plaintiff,**

13 **vs.**

14 **GAVIN NEWSOM, in his official**
15 **capacity as Governor of California;**
16 **CITY OF RIVERSIDE, a California**
17 **Governmental Agency; COUNTY OF**
18 **RIVERSIDE, a California**
Governmental Agency,

19 **Defendants.**

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF GEOFF HIRD

20
21 I, Geoff Hird, declare as follows:

22 1. I am an ice hockey referee at Plaintiff, DUNN ENTERPRISES, INC.
23 DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in
24 this Declaration, and if called upon to do so, would competently testify to the facts
25 stated herein.

26 2. I have been a referee at Icetown for several years and working at the
27 facility as a referee prior to it being shut down by Defendant, CITY OF
28

1 RIVERSIDE ("City") in September of 2020. While working as a referee at the
2 facility prior to its forced shutdown, Icetown required all patrons and employees to
3 wear masks, limited the number of people permitted in the building, closed off all
4 sitting areas, bleachers, and showers to promote social distancing, had enhanced
5 cleaning, sanitizing, and disinfecting procedures in place, as well as installed several
6 hand sanitizing dispensers throughout the building. Icetown put all these measures
7 in place to abide by the recommendations provided by the Center for Disease
8 Control and Prevention ("CDC").

9 3. Since Icetown was shut down by the City, I have been forced to referee
10 ice hockey elsewhere. Specifically, since October of 2020, I have been refereeing
11 ice hockey at the Center Ice Skating Arena ("Center Ice") located in the city of
12 Ontario, county of San Bernardino, California, approximately once a week since the
13 shutdown of Icetown as such facility is open to the public and currently holding
14 adult league hockey games. In fact, the adult hockey league at Center Ice has nearly
15 doubled in size since the shutdown of Icetown by the City, as teams have now
16 moved to Center Ice to play since they are no longer able to play at Icetown. I
17 desire to referee at Icetown, however I'm unable to do so since it has been shutdown
18 by the City.

19
20 I declare under penalty of perjury under the laws of the State of California
21 and the United States of America that the foregoing is true and correct.

22 Executed this 26th day of January, 2021, at Riverside,
23 California.

24
25 
26 Geoff Hird

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5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **DUNN ENTERPRISES, INC. DBA**
11 **ICETOWN, a California Corporation,**

12 Plaintiff,

13 vs.

14 **GAVIN NEWSOM, in his official**
15 **capacity as Governor of California;**
16 **CITY OF RIVERSIDE, a California**
17 **Governmental Agency; COUNTY OF**
18 **RIVERSIDE, a California**
Governmental Agency,

19 Defendants.
20

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF JOHNNIE
VIESSMAN

21 I, Johnnie Viessman, declare as follows:

22 1. I am a floor supervisor for Plaintiff DUNN ENTERPRISES, INC. DBA
23 ICETOWN ("Icetown") and have been employed by Icetown for fourteen (14)
24 years. I have personal knowledge of the matters stated in this Declaration, and if
25 called upon to do so, would competently testify to the facts stated herein.

26 2. For the brief time that Icetown was open and operational since the start
27 of the Covid-19 pandemic, we required all patrons and employees to wear masks,
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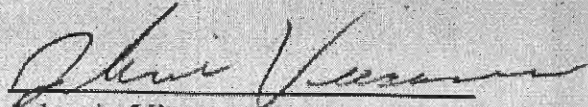
1 limited the number of people permitted in the building, closed off all sitting areas,
2 bleachers, and showers to promote social distancing, had enhanced cleaning,
3 sanitizing, and disinfecting procedures in place, as well as installed several hand
4 sanitizing dispensers throughout the building. Icetown put all these measures in
5 place to abide by the recommendations provided by the Center for Disease Control
6 and Prevention ("CDC").

7 3. Since Icetown was shut down by Defendant THE CITY OF
8 RIVERSIDE ("City") in September of 2020, there has been no work for me at the
9 facility. Icetown has been unfairly singled out and targeted by the State of
10 California ("State"), City, and County of Riverside ("County") as it was shut down
11 via a court ordered injunction in September of 2020, while other businesses continue
12 to defy the State's orders, however are not being shut down by the State, City, or
13 County.

14 4. Earlier this month in January of 2021, I personally witnessed IHOP and
15 Norms restaurants in the city of Riverside open for indoor dining. Additionally, I
16 also witnessed Crunch Fitness, a gym in the city of Riverside, which was open and
17 allowing customers to work out inside their gym. These businesses continue to defy
18 the State's orders, however neither the State, City, nor the County are shutting them
19 down just as they've done to Icetown.

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22 I declare under penalty of perjury under the laws of the State of California
23 and the United States of America that the foregoing is true and correct.

24 Executed this 22 day of January, 2021, at Riverside, California.

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26 
27 Johnnie Viessman
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5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 **DUNN ENTERPRISES, INC. DBA**
11 **ICETOWN, a California Corporation,**

12 **Plaintiff,**

13 **vs.**

14 **GAVIN NEWSOM, in his official**
15 **capacity as Governor of California;**
16 **CITY OF RIVERSIDE, a California**
17 **Governmental Agency; COUNTY OF**
18 **RIVERSIDE, a California**
Governmental Agency,

19 **Defendants.**

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF JUSTIN
SOAPES

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21 I, Justin Soapes, declare as follows:

22 1. I am a current customer of Plaintiff, DUNN ENTERPRISES, INC.
23 DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in
24 this Declaration, and if called upon to do so, would competently testify to the facts
25 stated herein.

26 2. I have been a customer of Icetown for several years and was skating at
27 the facility prior to it being shut down by Defendant, CITY OF RIVERSIDE
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1 ("City") in September of 2020. While skating at the facility prior to its forced
2 shutdown, Icetown required all patrons and employees to wear masks, limited the
3 number of people permitted in the building, closed off all sitting areas, bleachers,
4 and showers to promote social distancing, had enhanced cleaning, sanitizing, and
5 disinfecting procedures in place, as well as installed several hand sanitizing
6 dispensers throughout the building. Icetown put all these measures in place to abide
7 by the recommendations provided by the Center for Disease Control and Prevention
8 ("CDC").

9 3. Since Icetown was shut down by the City, I have been forced to skate
10 elsewhere. Specifically, I have been skating at the The Rinks Yorba Linda located
11 in the city of Yorba Linda, county of Orange, California, approximately once a week
12 since the shutdown of Icetown as such facility is open to the public. I desire to skate
13 at Icetown, however I'm unable to do so since it has been shutdown by the City.

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16 I declare under penalty of perjury under the laws of the State of California
17 and the United States of America that the foregoing is true and correct.

18 Executed this 22 day of January, 2021, at 12:05
19 California.

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23 Justin Soapes
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5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **DUNN ENTERPRISES, INC. DBA**
11 **ICETOWN, a California Corporation,**

12 Plaintiff,

13 vs.

14 **GAVIN NEWSOM, in his official**
15 **capacity as Governor of California;**
16 **CITY OF RIVERSIDE, a California**
17 **Governmental Agency; COUNTY OF**
18 **RIVERSIDE, a California**
Governmental Agency,

19 Defendants.
20

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF MONICA
VIOLA

21 I, Monica Viola, declare as follows:

22 1. I am the figure skating director for Plaintiff DUNN ENTERPRISES,
23 INC. DBA ICETOWN ("Icetown") and have held this position with Icetown for five
24 (5) years. I have personal knowledge of the matters stated in this Declaration, and if
25 called upon to do so, would competently testify to the facts stated herein.

26 2. For the brief time that Icetown was open and operational since the start
27 of the Covid-19 pandemic, we required all patrons and employees to wear masks,
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1 limited the number of people permitted in the building, closed off all sitting areas,
2 bleachers, and showers to promote social distancing, had enhanced cleaning,
3 sanitizing, and disinfecting procedures in place, as well as installed several hand
4 sanitizing dispensers throughout the building. Icetown put all these measures in
5 place to abide by the recommendations provided by the Center for Disease Control
6 and Prevention ("CDC").

7 3. Since Icetown was shut down by Defendant the CITY OF RIVERSIDE
8 ("City") in September of 2020, on or about December 22, 2020, I took several of my
9 figure skating students to the ice rink in Temecula, which is located in County of
10 Riverside ("County"). Despite the State's orders, the County has permitted this ice
11 rink to be open because it is considered "outdoor." Although this ice rink has been
12 classified as "outdoor," it is completely enclosed by a tent, essentially making it an
13 indoor rink.

14 4. In addition to the ice rink in Temecula being indoor as it is completely
15 enclosed by a tent, absolutely no social distancing is being practiced at the rink.
16 Specifically, human trains of ten (10) or more people were being formed on the ice
17 where individuals were physically touching each other. Two photographs which I
18 personally took of these human trains that I witnessed are attached hereto as **Exhibit**
19 **1.**

20 5. At no time since the Covid-19 pandemic was public skating ever
21 permitted at Icetown. Due to the fact that public skating was not permitted at
22 Icetown, no human trains were able to be formed by patrons as the only events
23 taking place were organized figure skating and youth hockey programs.

24 6. Additionally, Icetown has state of the art equipment in its facility such
25 as dehumidifiers for the purpose of air circulation. From what I could see, the rink
26 in Temecula had so such equipment since it is a make-shift rink enclosed by a tent.

27 7. From my experience, skating at Icetown is much safer than at the rink
28 in Temecula because (1) Icetown's programs are controlled and limited which

1 ensure social distancing and (2) Icetown's chiller equipment allows for far greater
2 air circulation and medical professionals have stated that greater air circulation helps
3 promote a safer environment relating to Covid-19.

4 8. Despite the above facts, the County permits the rink in Temecula to
5 operate, however has made sure that Icetown remains shut down.

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8 I declare under penalty of perjury under the laws of the State of California
9 and the United States of America that the foregoing is true and correct.

10 Executed this 19 day of January, 2021, at Riverside, California.

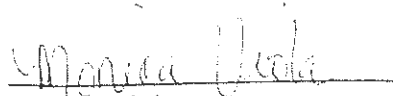
11
12 
13 Monica Viola

EXHIBIT 1





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Attorney for Plaintiff,
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DUNN ENTERPRISES, INC. DBA
ICETOWN, a California Corporation,

Plaintiff,

vs.

GAVIN NEWSOM, in his official
capacity as Governor of California;
CITY OF RIVERSIDE, a California
Governmental Agency; COUNTY OF
RIVERSIDE, a California
Governmental Agency,

Defendants.

**CASE NO.: 5:21-cv-00048 JWH
(SHKx)**

DECLARATION OF NIK NUNEZ

I, Nik Nunez, declare as follows:

1. I have personal knowledge of the matters stated in this Declaration, and if called upon to do so, would competently testify to the facts stated herein.

2. Since August of 2020, I have been playing adult league roller hockey at the The Rinks Corona Inline located in the city of Corona, county of Riverside, California, approximately once a week. The Rinks Corona Inline is open to the public despite the orders from the State of California.

1 I declare under penalty of perjury under the laws of the State of California
2 and the United States of America that the foregoing is true and correct.

3 Executed this 25 day of January, 2021, at Murrieta, California.
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Nik Nunez
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Attorney for Plaintiff,
DUNN ENTERPRISES, INC. DBA ICETOWN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DUNN ENTERPRISES, INC. DBA
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Governmental Agency; COUNTY OF
RIVERSIDE, a California
Governmental Agency,

Defendants.

**CASE NO.: 5:21-cv-00048 JWH
(SHKx)**

**DECLARATION OF PETER
MELENDEZ**

I, Peter Melendez, declare as follows:

1. I am a current customer of Plaintiff, DUNN ENTERPRISES, INC. DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in this Declaration, and if called upon to do so, would competently testify to the facts stated herein.

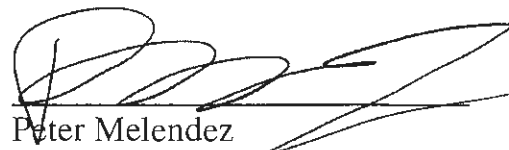
2. I have been a customer of Icetown for several years and was skating at the facility prior to it being shut down by Defendant, CITY OF RIVERSIDE

1 ("City") in September of 2020. While skating at the facility prior to its forced
2 shutdown, Icetown required all patrons and employees to wear masks, limited the
3 number of people permitted in the building, closed off all sitting areas, bleachers,
4 and showers to promote social distancing, had enhanced cleaning, sanitizing, and
5 disinfecting procedures in place, as well as installed several hand sanitizing
6 dispensers throughout the building. Icetown put all these measures in place to abide
7 by the recommendations provided by the Center for Disease Control and Prevention
8 ("CDC").

9 3. Since Icetown was shut down by the City, I have been forced to skate
10 elsewhere. Specifically, I have been skating at the Ontario Ice Skating Center
11 located in the city of Ontario, county of San Bernardino, California, approximately
12 once a week since the shutdown of Icetown as such facility is open to the public. I
13 desire to skate at Icetown, however I'm unable to do so since it has been shutdown
14 by the City.

15
16
17 I declare under penalty of perjury under the laws of the State of California
18 and the United States of America that the foregoing is true and correct.

19 Executed this 25 day of January, 2021, at Riverside,
20 California.

21
22
23 
Peter Melendez

PLAINTIFF: Claudia Segura	CASE NUMBER:
DEFENDANT: Beyond Staffing Solutions, Inc., et al	CIVDS1908672

PROOF OF SERVICE

(After having the other party served as described below, with any of the documents in item 1, have the person who served the documents complete this Proof of Service. Plaintiff cannot serve these papers.)

1. I served the
- a. ☒ Statement of Damages ☐ Other (specify):
- b. on (name): **Beyond Staffing Solutions for Diamond PEO**
- c. by serving ☐ defendant ☒ Other (name and title or relationship to person served): **Andre Avillas - Bookkeeper**
 Race: Latino Sex: Male Age: 26-30yrs
 Height: 5'7"-6'0" Weight: 161-180lbs Hair: Brown
- d. ☒ By Delivery ☐ at home ☒ at business
 (1) date: **10/19/2020**
 (2) time: **2:20 PM**
 (3) address: **760 N Euclid St Ste 207, Anaheim, CA 928014124**
- e. ☐ By mailing
 (1) date:
 (2) place:
2. Manner of service (check proper box):
- a. ☐ **Personal service.** By personally delivering copies. (CCP § 415.10)
- b. ☒ **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP C 415.20(a))
- c. ☐ **Substituted service on natural person, minor, conservatee, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP C 415.20(b)) **(Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)**
- d. ☐ **Mail and acknowledgment service.** By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP C 415.30) **(Attach completed acknowledgment of receipt.)**
- e. ☐ **Certified or registered mail service.** By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP ? 415.40) **(Attach a signed return receipt or other evidence of actual delivery to the person served.)**
- f. ☐ Other (specify code section):
☐ additional page is attached.

3. At the time of service I was at least 18 years of age and not a party to this action.

4. Fee for service: \$ **113.90**

5. Person Serving:

- a. ☐ California sheriff, marshal, or constable
- b. ☐ Registered California process server
- c. ☒ Employee or independent contractor of a registered California process server
- d. ☐ Not a registered California process server
- e. ☐ Exempt from registration under Bus. & Prof. Code C 22350(b)

f. Name, address and telephone number and, if applicable, county of registration and number:

David R. Pighin, DDS Legal Support
2900 Bristol Street
Costa Mesa, CA 92626
Registration: 2181 Phone: (714) 662-5555

(For California sheriff, marshal, or constable use only)

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

I certify that the foregoing is true and correct.

Date: **10/20/2020**

Date:

(SIGNATURE)

(SIGNATURE)

1 ELAN J. DUNAEV, ESQ. (SBN 310060)
2 ejdunaevesq@gmail.com
3 2801 Kelvin Avenue, Suite 551
4 Irvine, California 92614
Telephone: (949) 683-3460

5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 DUNN ENTERPRISES, INC. DBA
11 ICETOWN, a California Corporation,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, in his official
15 capacity as Governor of California;
16 CITY OF RIVERSIDE, a California
17 Governmental Agency; COUNTY OF
18 RIVERSIDE, a California
Governmental Agency,

19 Defendants.

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF ZACK DANIEL

20
21 I, Zack Daniel, declare as follows:

22 1. I am a current customer of Plaintiff, DUNN ENTERPRISES, INC.
23 DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in
24 this Declaration, and if called upon to do so, would competently testify to the facts
25 stated herein.

26 2. I have been a customer of Icetown for several years and was skating at
27 the facility prior to it being shut down by Defendant, CITY OF RIVERSIDE
28

1
DECLARATION OF ZACK DANIEL

1 ("City") in September of 2020. While skating at the facility prior to its forced
2 shutdown, Icetown required all patrons and employees to wear masks, limited the
3 number of people permitted in the building, closed off all sitting areas, bleachers,
4 and showers to promote social distancing, had enhanced cleaning, sanitizing, and
5 disinfecting procedures in place, as well as installed several hand sanitizing
6 dispensers throughout the building. Icetown put all these measures in place to abide
7 by the recommendations provided by the Center for Disease Control and Prevention
8 ("CDC").

9 3. Since Icetown was shut down by the City, I have been forced to skate
10 elsewhere. Specifically, I have been skating at KHS Ice Arena located in the city of
11 Anaheim, county of Orange, California, approximately once a week since the
12 shutdown of Icetown as such facility is open to the public. I desire to skate at
13 Icetown, however I'm unable to do so since it has been shutdown by the City.

14
15
16 I declare under penalty of perjury under the laws of the State of California
17 and the United States of America that the foregoing is true and correct.

18 Executed this 21st day of January, 2021, at CORONA,
19 California.

20
21 

22 Zack Daniel
23
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9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 DUNN ENTERPRISES, INC.

13 Plaintiff(s),

14 v.

15 GAVIN NEWSOM, et al.

16 Defendant(s).
17
18
19

Case No. 5:21-cv-00048-JWH-SHK

STANDING ORDER

20
21 **PLEASE READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE**
22 **AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**
23

- 24 • If this case was removed to this Court, the removing Defendant shall
25 immediately serve this Order on all other parties.
26 • Otherwise, Plaintiff shall immediately serve this Order on all parties.
27
28

1 This action has been assigned to the calendar of Judge John W. Holcomb.

2 The Court and litigants bear joint responsibility for the progress of litigation
3 in the Federal Courts. To secure the just, speedy, and inexpensive determination of
4 every action, *see* Fed. R. Civ. P. 1, all counsel are hereby ordered to become
5 familiar with the Federal Rules of Civil Procedure and the Local Rules of the
6 Central District of California.

7 The Court further orders as follows:

8 **1. Service of the Complaint.** Plaintiff shall serve the Complaint
9 promptly in accordance with Rule 4 of the Federal Rules of Civil Procedure and
10 shall file the proofs of service pursuant to L.R. 5-3.1.

11 **2. Removed Actions.** Any answers filed in state court must be re-filed
12 in this Court, either as an exhibit to the Notice of Removal or as a separate filing.
13 Any pending motions must be re-noticed in accordance with L.R. 6-1.

14 **3. Assignment to a Magistrate Judge.** Under 28 U.S.C. § 636, the
15 parties may consent to have a Magistrate Judge preside over all proceedings. The
16 Magistrate Judges who accept those designations are identified on the Central
17 District's website, which also contains the consent form.

18 **4. Electronic Filing.** This Court uses an electronic filing system for
19 documents. Information regarding the Court's Electronic Case Filing system is
20 available on the Court's website at www.cacd.uscourts.gov/cmecf.

21 All documents required to be e-filed in this matter can be found in General
22 Order No. 10-07 and L.R. 5-4. The Court specifically directs litigants to
23 L.R. 5-4.3.1, requiring that all electronically filed documents be created by
24 publishing the document to PDF, and not by scanning paper documents.

25 **5. Mandatory Chambers Copies.** All original filings are to be filed
26 electronically pursuant to Local Rule 5-4. The Court requires one (1) Mandatory
27 Chambers Copy of ONLY the following filed documents:
28

1 a. Civil matters: Motions and related documents (*e.g.*,
 2 oppositions, replies, exhibits); *ex parte* applications and related documents
 3 (*e.g.*, oppositions and exhibits); and Joint Rule 26(f) reports;

4 b. Criminal matters: All motions and related documents and
 5 exhibits; plea agreements(s); and sentencing memorandum and objections to
 6 the pre-sentence reports.

7 Mandatory Chambers Copies shall be delivered to the Courtesy Box, located
 8 outside of Courtroom 2 on the second floor of the United States District Court,
 9 3470 Twelfth Street, Riverside, California 92501, no later than 5:00 p.m. on the
 10 first court day following the e-filing. Alternatively, Counsel may transmit such
 11 conformed Mandatory Chambers Copies via FedEx, UPS, or other overnight
 12 service, for delivery no later than 5:00 p.m. on the first court day following the
 13 e-filing, addressed to the Chambers of Judge John W. Holcomb, U.S. District
 14 Court for the Central District of California, Courtroom 2, 3470 Twelfth Street,
 15 Riverside, CA 92501. All Mandatory Chambers Copies shall comply with the
 16 document formatting requirements of L.R. 11-3, *except for the blue-backing*
 17 *requirement of L.R. 11-4.1, which is hereby waived*. If the filing party and its
 18 counsel fail to deliver a Mandatory Chambers Copy in full compliance with this
 19 Order and L.R. 11-3, the Court may, on its own motion, reschedule any related
 20 hearing and impose sanctions.

21 **6. Proposed Orders.** Each party filing or opposing a motion or seeking
 22 the determination of any matter shall serve and electronically lodge a proposed
 23 order that sets forth the relief or action sought and a brief statement of the rationale
 24 for the decision with appropriate citations.

25 **7. Presence of Lead Counsel.** Lead trial counsel for each party must
 26 attend any scheduling and pretrial conferences set by the Court. Failure of lead
 27 trial counsel to appear for those proceedings is a basis for sanctions.
 28

1 **8. Discovery.** All discovery matters have been referred to a United
2 States Magistrate Judge. The Magistrate Judge's initials follow the District
3 Judge's initials in the case number assigned to the matter. The words
4 "DISCOVERY MATTER" shall appear in the caption of all documents relating to
5 discovery to insure proper routing. Unless the assigned Magistrate Judge explicitly
6 waives the Mandatory Chambers Copy rule, Counsel shall deliver Mandatory
7 Chambers Copies of discovery-related papers to the assigned Magistrate Judge
8 (rather than to this Court).

9 **9. Motions - General Requirements.**

10 a. Time for Hearing Motions. Motions shall be filed and set for
11 hearing in accordance with L.R. 6-1. Motions will be heard on Fridays
12 commencing at 9:00 a.m. Any motion noticed for a holiday shall
13 automatically be set to the next Friday without further notice to the parties.

14 b. Length and Format of Motions. Memoranda of Points and
15 Authorities in support of or in opposition to motions shall not exceed 25
16 pages. Replies shall not exceed 12 pages. Only in rare instances, and for
17 good cause shown, will the Court grant an application to extend these page
18 limitations. When citing to legal databases, wherever possible cite to
19 Westlaw rather than Lexis.

20 c. Voluminous Materials. If documentary evidence in support of
21 or in opposition to a motion exceeds 50 pages, the evidence must be
22 separately bound and tabbed and include an index. If such evidence exceeds
23 200 pages, the documents shall be placed in a three-ring binder, with an
24 index and with each item of evidence separated by a tab divider.

25 d. Withdrawal of, or Non-Opposition to, Motions. In the event
26 that the parties resolve a pending motion, they must notify the Court
27 immediately. Sanctions may issue for failure to comply with this
28 requirement, or the broader requirement set forth in L.R. 7-16 that any party

1 who intends to withdraw a motion, not to oppose a motion, or to seek a
 2 continuance of the hearing date for a motion, must notify the Court by noon
 3 on the Tuesday preceding the hearing date.

4 **10. Motions to Amend.** In addition to the requirements of L.R. 15, all
 5 motions to amend pleadings shall (1) state the effect of the amendment; and
 6 (2) identify the page(s), line number(s), and wording of any proposed change or
 7 addition of material.

8 **11. Class Actions.** Notwithstanding L.R. 23-3, the deadline for the filing
 9 of a motion for class certification will be set during the Scheduling Conference
 10 and/or in a Scheduling Order. If the Court does not expressly set a separate
 11 deadline for the filing of a motion for class certification, then such deadline shall
 12 be the same as the deadline for filing dispositive motions. *No request for relief*
 13 *from L.R. 23-3 is necessary.*

14 **12. Motions for Summary Judgment or Partial Summary Judgment.**
 15 No party may file more than one motion pursuant to Rule 56 of the Federal Rules
 16 of Civil Procedure regardless of whether such motion is denominated as a motion
 17 for summary judgment or summary adjudication. Parties offering evidence in
 18 support of, or in opposition to, a Rule 56 motion must cite to specific page and line
 19 numbers in depositions and paragraph numbers in declarations and affidavits.
 20 Furthermore, such evidence must be authenticated properly. The Court directs the
 21 parties to become familiar with *Orr v. Bank of America, NT & SA*, 285 F.3d 764
 22 (9th Cir. 2002).

23 a. Statements of Undisputed Facts and Genuine Disputes. The
 24 moving party's brief shall be accompanied by a Statement of Undisputed
 25 Facts ("SUF"). The SUF shall be presented in a table format and include the
 26 following columns:

27 i. The first column shall contain the number of the fact
 28 alleged to be undisputed.

ii. The second column shall contain a plain statement of the fact. *Facts shall not be compound.* If, for instance, the required response is that the fact is disputed in part, the fact is compound. Further, neither legal arguments nor conclusions constitute facts.

iii. The third column shall contain a citation to admissible evidence the party believes supports the proffered fact.

For example:

<u>Pl.'s SUF No.</u>	<u>Fact</u>	<u>Supporting Evidence</u>
1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶2.
2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶4.
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ Decl. of Plaintiff's Expert ¶ 14.
...

The party opposing the summary judgment motion shall include with its opposition a Statement of Genuine Disputes of Material Fact that includes the moving party's table, but the opposing party shall add a fourth column to the moving party's table identifying those facts that are in dispute, briefly explaining the dispute, and citing the evidence supporting the dispute. The opposing party shall not set forth legal or evidentiary objections in the statement of genuine disputes of material fact. For example:

<u>PL's SUF No.</u>	<u>Fact</u>	<u>Supporting Evidence</u>	<u>Def.'s Response</u>
1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶ 2.	Undisputed.
2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.	Disputed. The light was red when Plaintiff traveled through the intersection. (Decl. of Defendant ¶ 6.)
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Dec. of Plaintiff's Expert ¶ 14.	Disputed. Plaintiff was driving 52 miles per hour when she went through the intersection. (Decl. of Defendant's Expert ¶ 9.)
...

If a party fails to dispute a fact properly by offering evidence that does not contradict the proffered fact, the Court will deem the fact undisputed for purposes of the motion. *See* Fed. R. Civ. P. 56(e)(2), L.R. 56-3.

If the party opposing the summary judgment motion wishes to include its own set of undisputed facts, it may include them in a second table at the end of its statement of genuine disputes of material fact. The opposing party's undisputed facts shall be set forth in the same manner as the moving party's SUF. For example:

<u>Def.'s SUF No.</u>	<u>Fact</u>	<u>Supporting Evidence</u>
1.	The tires on Plaintiff's car had only 1 millimeter of tread remaining at the time of the accident.	Decl. of Mechanic ¶ 5.
...

If either party fails to provide a pin cite to the supporting evidence, the Court will deem the proffered fact (or dispute) unsupported. *See generally Christian Legal Soc. v. Wu*, 626 F.3d 483, 488 (9th Cir. 2010) (“Judges are not like pigs, hunting for truffles buried in briefs.” (quoting *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (quoting *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) (*per curiam*)) (alteration omitted))).

b. Objections to Evidence. Parties shall file any legal objections to the other party’s proffered evidence under separate cover. The evidentiary objections should be presented in a three-column format and include the following columns:

i. The first column shall contain the number of the fact objected to, using the numbering submitted in the moving party’s SUF if applicable.

ii. The second column shall identify the item objected to, including its page and line number if applicable.

iii. The third column shall set forth a concise objection (*e.g.*, hearsay, lacks foundation, etc.) with a citation to the Federal Rules of Evidence or, where applicable, a case citation.

For example:

<u>Fact No.</u>	<u>Fact</u>	<u>Objection</u>
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection. (Decl. of Plaintiff ¶ 7; Decl. of Plaintiff’s Expert ¶ 14)	Irrelevant. F.R.E. 402.
...

13. Ex Parte Applications. *Ex Parte* applications are considered on the papers and are not usually set for hearing. Counsel are advised that this Court

1 allows *ex parte* applications solely for extraordinary relief. Sanctions may be
 2 imposed for misuse of *ex parte* applications. *See In re Intermagnetics Am., Inc.*,
 3 101 B.R. 191 (Bankr. C.D. Cal. 1989). Counsel also should become familiar with
 4 *Mission Power Engineering Co. v. Continental Casualty Co.*, 883 F. Supp. 488
 5 (C.D. Cal. 1995), regarding *ex parte* applications.

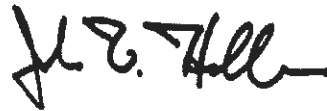
6 The Court directs Counsel's attention to L.R. 7-19. The moving party's
 7 declaration in support of an *ex parte* application shall show compliance with
 8 L.R. 7-19 and this Order, and it shall include a statement of opposing counsel's
 9 position. Failure to do so ensures the application will be DENIED. If counsel does
 10 not intend to oppose an *ex parte* application, counsel must inform the Courtroom
 11 Deputy Clerk (951-328-4462). As with all motion papers, counsel must deliver a
 12 Mandatory Chambers Copy in accordance with Paragraph 5 above. Counsel will
 13 be notified by the Courtroom Deputy Clerk of the Court's ruling, or of a hearing
 14 time and date if the Court determines that a hearing is necessary.

15 **14. Stipulations.** Stipulations extending scheduling dates set by this
 16 Court are not effective unless approved by the Court. Continuances will be
 17 granted only upon a showing of good cause.

18 **15. Communications with Chambers.** Unless requested to do so,
 19 counsel shall not attempt to contact the Court or its staff by telephone or by any
 20 other *ex parte* means. Counsel are directed to review the Central District's website
 21 at www.cacd.uscourts.gov for the Local Rules, filing procedures, judges'
 22 procedures and schedules, calendars, forms, and Pacer access. Counsel may
 23 contact the Courtroom Deputy Clerk, Irene Vazquez, by telephone at
 24 951-328-4462 or by email at irene_vazquez@cacd.uscourts.gov only in the event
 25 that counsel cannot find the desired information through all available resources.

26 **16. Telephonic and Video Appearances.** Counsel must request a
 27 telephonic or video appearance for a hearing through the Courtroom Deputy Clerk,
 28

1 by email at JWH_Chambers@cacd.uscourts.gov, at least one week before
2 the scheduled hearing.

3 

4 Dated: January 14, 2021

5 _____
6 John W. Holcomb
7 UNITED STATES DISTRICT JUDGE
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DUNN ENTERPRISES, INC.

Plaintiff(s)

v.

GAVIN NEWSON, et al.

Defendant(s).

CASE NUMBER:

5:21-cv-00048-JWH-SHK

**NOTICE TO PARTIES OF
COURT-DIRECTED ADR PROGRAM**

NOTICE TO PARTIES:

It is the policy of this Court to encourage settlement of civil litigation when such is in the best interest of the parties. The Court favors any reasonable means, including alternative dispute resolution (ADR), to accomplish this goal. *See* L.R. 16-15. Unless exempted by the trial judge, parties in all civil cases must participate in an ADR process before trial. *See* L.R. 16-15.1.

The district judge to whom the above-referenced case has been assigned is participating in an ADR Program that presumptively directs this case to either the Court Mediation Panel or to private mediation. *See* General Order No. 11-10, §5. For more information about the Mediation Panel, visit the Court website, www.cacd.uscourts.gov, under "ADR."

Pursuant to L.R. 26-1(c), counsel are directed to furnish and discuss with their clients the attached ADR Notice To Parties *before* the conference of the parties mandated by Fed.R.Civ.P. 26(f). Based upon the consultation with their clients and discussion with opposing counsel, counsel must indicate the following in their Joint 26(f) Report: 1) whether the case is best suited for mediation with a neutral from the Court Mediation Panel or private mediation; and 2) when the mediation should occur. *See* L.R. 26-1(c).

At the initial scheduling conference, counsel should be fully prepared to discuss their preference for referral to the Court Mediation Panel or to private mediation and when the mediation should occur. The Court will enter an Order/Referral to ADR at or around the time of the scheduling conference.

Clerk, U.S. District Court

January 13, 2021
Date

By /s/ Edwin Sambrano
Deputy Clerk

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE TO PARTIES: COURT POLICY ON SETTLEMENT
AND USE OF ALTERNATIVE DISPUTE RESOLUTION (ADR)**
Counsel are required to furnish and discuss this Notice with their clients.

Despite the efforts of the courts to achieve a fair, timely and just outcome in all cases, litigation has become an often lengthy and expensive process. For this reason, it is this Court's policy to encourage parties to attempt to settle their disputes, whenever possible, through alternative dispute resolution (ADR).

ADR can reduce both the time it takes to resolve a case and the costs of litigation, which can be substantial. ADR options include mediation, arbitration (binding or non-binding), neutral evaluation (NE), conciliation, mini-trial and fact-finding. ADR can be either Court-directed or privately conducted.

The Court's ADR Program offers mediation through a panel of qualified and impartial attorneys who will encourage the fair, speedy and economic resolution of civil actions. Panel Mediators each have at least ten years of legal experience and are appointed by the Court. They volunteer their preparation time and the first three hours of a mediation session. This is a cost-effective way for parties to explore potential avenues of resolution.

This Court requires that counsel discuss with their clients the ADR options available and instructs them to come to the initial scheduling conference prepared to discuss the parties' choice of ADR option. The ADR options available are: a settlement conference before the magistrate judge assigned to the case or the magistrate judge in Santa Barbara, the Court Mediation Panel, and private mediation. Counsel are also required to indicate the client's choice of ADR option in advance of the initial scheduling conference. *See* L.R. 26-1(c) and Fed.R.Civ.P. 26(f).

Clients and their counsel should carefully consider the anticipated expense of litigation, the uncertainties as to outcome, the time it will take to get to trial, the time an appeal will take if a decision is appealed, the burdens on a client's time, and the costs and expenses of litigation in relation to the amounts or stakes involved.

Each year thousands of civil cases are filed in this district, yet typically no more than one percent go to trial. Most cases are settled between the parties, voluntarily dismissed, resolved through Court-directed or other forms of ADR, or dismissed by the Court as lacking in merit or for other reasons provided by law.

For more information about the Court's ADR Program, the Mediation Panel, and the profiles of mediators, visit the Court website, www.cacd.uscourts.gov, under "ADR."

1 ELAN J. DUNAEV, ESQ. (SBN 310060)
2 ejdunaevesq@gmail.com
3 2801 Kelvin Avenue, Suite 551
4 Irvine, California 92614
Telephone: (949) 683-3460

5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 DUNN ENTERPRISES, INC. DBA
11 ICETOWN, a California Corporation,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, in his official
15 capacity as Governor of California;
16 CITY OF RIVERSIDE, a California
17 Governmental Agency; COUNTY OF
18 RIVERSIDE, a California
Governmental Agency,

19 Defendants.
20

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF RICK
BARBEAU

21 I, Rick Barbeau, declare as follows:

22 1. I am a current customer of Plaintiff, DUNN ENTERPRISES, INC.
23 DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in
24 this Declaration, and if called upon to do so, would competently testify to the facts
25 stated herein.

26 2. I have been a customer of Icetown for several years and was skating at
27 the facility prior to it being shut down by Defendant, CITY OF RIVERSIDE
28

1 ("City") in September of 2020. While skating at the facility prior to its forced
2 shutdown, Icetown required all patrons and employees to wear masks, limited the
3 number of people permitted in the building, closed off all sitting areas, bleachers,
4 and showers to promote social distancing, had enhanced cleaning, sanitizing, and
5 disinfecting procedures in place, as well as installed several hand sanitizing
6 dispensers throughout the building. Icetown put all these measures in place to abide
7 by the recommendations provided by the Center for Disease Control and Prevention
8 ("CDC").

9 3. Since Icetown was shut down by the City, I have been forced to skate
10 elsewhere. Specifically, I have been skating at the East West Ice Palace located in
11 the city of Artesia, county of Los Angeles, California, as well as at the Center Ice
12 Skating Arena located in the city of Ontario, county of San Bernardino, California,
13 approximately once a week since the shutdown of Icetown as such facility is open to
14 the public. I desire to skate at Icetown, however I'm unable to do so since it has
15 been shutdown by the City.

16
17
18 I declare under penalty of perjury under the laws of the State of California
19 and the United States of America that the foregoing is true and correct.

20 Executed this 26 day of January, 2021, at 11:00am,
21 California.

J

22
23 
24 Rick Barbeau

1 ELAN J. DUNAEV, ESQ. (SBN 310060)
2 ejdunaevesq@gmail.com
3 2801 Kelvin Avenue, Suite 551
4 Irvine, California 92614
Telephone: (949) 683-3460

5 Attorney for Plaintiff,
6 **DUNN ENTERPRISES, INC. DBA ICETOWN**

7 **UNITED STATES DISTRICT COURT**
8
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 DUNN ENTERPRISES, INC. DBA
11 ICETOWN, a California Corporation,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, in his official
15 capacity as Governor of California;
16 CITY OF RIVERSIDE, a California
17 Governmental Agency; COUNTY OF
18 RIVERSIDE, a California
Governmental Agency,

19 Defendants.
20

CASE NO.: 5:21-cv-00048 JWH
(SHKx)

DECLARATION OF RICK
BARBEAU

21 I, Rick Barbeau, declare as follows:

22 1. I am a current customer of Plaintiff, DUNN ENTERPRISES, INC.
23 DBA ICETOWN ("Icetown"). I have personal knowledge of the matters stated in
24 this Declaration, and if called upon to do so, would competently testify to the facts
25 stated herein.

26 2. I have been a customer of Icetown for several years and was skating at
27 the facility prior to it being shut down by Defendant, CITY OF RIVERSIDE
28

1 ("City") in September of 2020. While skating at the facility prior to its forced
2 shutdown, Icetown required all patrons and employees to wear masks, limited the
3 number of people permitted in the building, closed off all sitting areas, bleachers,
4 and showers to promote social distancing, had enhanced cleaning, sanitizing, and
5 disinfecting procedures in place, as well as installed several hand sanitizing
6 dispensers throughout the building. Icetown put all these measures in place to abide
7 by the recommendations provided by the Center for Disease Control and Prevention
8 ("CDC").

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10 elsewhere. Specifically, I have been skating at the East West Ice Palace located in
11 the city of Artesia, county of Los Angeles, California, as well as at the Center Ice
12 Skating Arena located in the city of Ontario, county of San Bernardino, California,
13 approximately once a week since the shutdown of Icetown as such facility is open to
14 the public. I desire to skate at Icetown, however I'm unable to do so since it has
15 been shutdown by the City.

16
17
18 I declare under penalty of perjury under the laws of the State of California
19 and the United States of America that the foregoing is true and correct.

20 Executed this 26 day of January, 2021, at 11:00am,
21 California.

J

22
23 
24 Rick Barbeau

ELAN J. DUNAEV, ESQ. (SBN 310060)
ejdunaevesq@gmail.com
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Attorney for Plaintiff,
DUNN ENTERPRISES, INC. DBA ICETOWN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DUNN ENTERPRISES, INC. DBA
ICETOWN, a California Corporation,

Plaintiff,

vs.

GAVIN NEWSOM, in his official
capacity as Governor of California;
CITY OF RIVERSIDE, a California
Governmental Agency; COUNTY OF
RIVERSIDE, a California
Governmental Agency,

Defendants.

CASE NO.: 5:21-cv-00048

**PLAINTIFF DUNN ENTERPRISES,
INC. DBA ICETOWN'S NOTICE OF
INTERESTED PARTIES**

[L.R. 7.1-1]

The undersigned, counsel of record for Plaintiff, DUNN ENTERPRISES, INC. DBA ICETOWN, certifies that the following parties may have a pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal.

- (1) Plaintiff Dunn Enterprises, Inc. dba Icetown;
- (2) Defendant Gavin Newsom;
- (3) Defendant City of Riverside;
- (4) Defendant County of Riverside.

1 Dated: January 12, 2021

ELAN J. DUNAEV, ESQ.

2
3 By: /s/ Elan J. Dunaev

4 Elan J. Dunaev

5 Attorney for Plaintiff,

DUNN ENTERPRISES, INC. DBA
ICETOWN

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7 **UNITED STATES DISTRICT COURT**

8 **CENTRAL DISTRICT OF CALIFORNIA**

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10 **DUNN ENTERPRISES, INC. DBA**
11 **ICETOWN, a California Corporation,**

12 Plaintiff,

13 vs.

14 **GAVIN NEWSOM, in his official**
15 **capacity as Governor of California;**
16 **CITY OF RIVERSIDE, a California**
17 **Governmental Agency; COUNTY OF**
18 **RIVERSIDE, a California**
Governmental Agency,

19 Defendants.

CASE NO.: 5:21-cv-00048

PLAINTIFF DUNN ENTERPRISES,
INC. DBA ICETOWN'S *EX PARTE*
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE REGARDING ISSUANCE
OF A PRELIMINARY INJUNCTION

20
21 Plaintiff DUNN ENTERPRISES, INC. DBA ICETOWN ("Icetown") hereby
22 respectfully applies, on an *ex parte* basis, for a temporary restraining order ("TRO")
23 pending an order to show cause ("OSC") regarding the issuance of a preliminary
24 injunction.

25 This application is made on the grounds that Defendants GAVIN NEWSOM
26 ("Newsom"), THE CITY OF RIVERSIDE ("City"), and THE COUNTY OF
27 RIVERSIDE ("County") (collectively referred to as "Defendants") have infringed
28 upon Icetown's rights and freedoms afforded to it under the United States

1 Constitution. Specifically, Newsom’s August 28, 2020 reopening plan called “The
 2 Blueprint for a Safe Economy” (the “Blueprint”), which allows certain businesses to
 3 operate depending on what type of business it is and what color the county where
 4 the business is located is currently in, is in violation of the Due Process Clause of
 5 the Fourteenth Amendment, as well as the Fifth Amendment Right to Travel and
 6 Takings Clause of the Fifth Amendment. Additionally, the manner in which the
 7 Blueprint is being enforced is in violation of the Equal Protection Clause of the
 8 Fourteenth Amendment. Icetown has been targeted and singled out by Defendants
 9 and been forced to shut down, while other businesses continue to defy Defendants’
 10 orders yet are permitted to continue operations. Due to Defendants’ actions,
 11 Icetown is likely to prevail on the merits, has suffered irreparable harm, the balance
 12 in equities tip in Icetown’s favor as Defendants will suffer little to no harm
 13 compared to what Icetown will suffer if the instant *Ex Parte* Application is denied,
 14 and a TRO/preliminary injunction is in the public’s interest to ensure that
 15 individuals’ constitutionally protected freedoms cannot be taken away via arbitrary,
 16 government overreach.

17 Since none of the Defendants have made an appearance in this matter as of
 18 the date of this *Ex Parte* Application, Icetown is unaware of counsel for any of the
 19 Defendants. (Decl. of Elan Dunaev, ¶ 11.) However, Icetown will provide notice of
 20 this *Ex Parte* Application to Defendants via personal service. *Id.* This *Ex Parte*
 21 Application is being sent to the process server on January 28, 2021, and Icetown has
 22 been advised that it will be served on all Defendants no later than February 2, 2021.
 23 (Decl. of Elan Dunaev, ¶ 12.) Once Icetown receives a proof of service from its
 24 process server, Icetown will file such proof of service immediately. *Id.*

25 This application is based on this *Ex Parte* Application, the accompanying
 26 Memorandum of Points and Authorities, the Declaration of Elan Dunaev, the
 27 Declaration of Alex Dunaev, the Declaration of Chuck Conder, the Declaration of
 28 Johnnie Viessman, the Declaration of Monica Viola, the Declaration of Nik Nunez,

1 the Declaration of Geoff Hird, the Declaration of Rick Barbeau, the Declaration of
2 Peter Melendez, the Declaration of Zack Daniel, the Declaration of Austin
3 Lechtanski, the Declaration of Justin Soapes, the Declaration of Apryl Soapes, and
4 upon any further evidence and argument the Court considers.

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8 Dated: January 27, 2021

ELAN J. DUNAEV, ESQ.

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10 By: /s/ Elan J. Dunaev

11 Elan J. Dunaev

12 Attorney for Plaintiff,

**DUNN ENTERPRISES, INC. DBA
ICETOWN**

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7 **UNITED STATES DISTRICT COURT**
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CASE NO.: 5:21-cv-00048

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4 upon any further evidence and argument the Court considers.
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8 Dated: January 27, 2021

ELAN J. DUNAEV, ESQ.

9
10 By: /s/ Elan J. Dunaev

11 Elan J. Dunaev

12 Attorney for Plaintiff,

**DUNN ENTERPRISES, INC. DBA
13 ICETOWN**
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