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December 18, 2010

VIA FACSIMILE ONLY

Mr. Robert Shannon
Long Beach City Attorney
333 W. Ocean Blvd, 11th Floor
Long Beach, CA 90802-4664

Re: Pack v. Superior Ct.
2nd Civil No.: B228781

Dear Mr. Shannon:

Your office called and asked for a 45-day extension of the December 27, 2010 brief due date ordered by the 2nd District in the above referenced matter.

Long Beach has continued its enforcement of LBMC 5.87 against patients in the city. Today, a patient was issued a citation under 5.87. The Superior Court in Los Angeles has barred enforcement of parts of that city's ordinance. The provisions the court found offensive in Los Angeles are the same as or similar to provisions at issue in the Pack case including, but not limited to, sections of the Los Angeles law providing for criminal penalties and provisions in that law allowing summary action shutting down patient cooperative groups without notice and hearing. Today, a Long Beach city inspector visited a patient collective/cooperative in the city and ordered it to shut down under 5.87. Like the invalid part of the Los Angeles law, LBMC 5.87.100 subjects violators to criminal sanctions including up to one (1) year in jail. Although the city council has had several private meetings that appear to involve 5.87, as far as I can tell, 5.87.100 is still operational and applies to the recently issued citations.

As I have said before, patient collectives can only be groups of patients working cooperatively together. By definition, these patients have some illnesses, disability, or condition. Some have cancer, AIDS, or serious disabilities. Why the city continues to insist on punishing these people is a question I cannot answer because, as the Superior Court in the Pack case noted, the city has provided no reason for treating these patient groups as "undesirable."

When asking for the 45-day extension agreement, your deputy said the city would not agree to refrain from enforcing 5.87 until a decision on the merits by the 2nd District. He said this despite

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the Superior Court's order finding 5.87 "contrary to " and "inconsistent with" state legislative intent. The city has declined to answer all but one (1) of the many letters that I've sent and it answered that letter with a single sentence refusing to discuss the matter. This includes my letters sent months before enforcement of the ordinance began. Thereafter, the city engaged in an all-out attack on people who can only be patients.

I would like to believe that I'm wrong, but it appears the city simply doesn't care about the trauma it is causing for these people. It appears it is worried more about its potential current or future liability than it is about its citizens who suffer from illness, disability, or permanent injury – the people affected by 5.87. Although there is no record of it, I have been told the city council is concerned about pecuniary liability. That is odd because this case seeks declaratory relief. Since the appellate court has made its order and the Superior Court judge in Los Angeles has stricken provisions of that city's law that are the same as or similar to provisions at issue in this case, perhaps the city should reconsider meeting and working toward a positive resolution. The patients aren't asking for money in this case – they would like the city to reconsider its decision to treat patient groups as "undesirable" and would like it to provide legislation that is balanced and appropriate. It is important to note that the summary "shut down" orders issued by Los Angeles and that led to many patient groups closing down in that city were deemed improper by the court in that case. Many patients in Long Beach have had their collective groups closed and access to medication denied, delayed, or jeopardized because of the same type of "shut down" orders.

If the city will agree to stop enforcing 5.87 until the appellate court has made a decision and will agree to sit down and discuss a solution, we'll agree to the 45-day extension (noting the Court will have to agree to any stipulation extending time). If the city will not, we'll have to oppose any motion to extend the briefing schedule because the patients should not have to endure continuing "shut down" orders, threats of arrest, and criminal sanction citations for another 45-days. Since your deputy said you could not agree to the 45-day extension in part because it was a decision the city council would have to make, could you please present this letter to the council? I believe there is a council meeting scheduled for Tuesday. Also, the Court's order was made a number of weeks ago and there certainly was time ahead of this to discuss an extension. I respectfully ask that you let the council know that this case is not seeking a money judgment – rather, the patients would like to be treated reasonably – they do not want a law that treats them as "undesirable" (the Superior Court order found the ordinance treats their patient groups as "undesirable"). A law that balances the needs of patients with the city's valid concerns (some of which, by the way, are concerns the patients, as citizens of Long Beach, share) is the way this should be worked out for the seriously ill and disabled patients as well as for other citizens of Long Beach.

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Please let me know. My number is (949) 371-7881. My schedule is affected by the holidays, but someone in my office can get in touch with me. I will also be checking voice mail.

Thank you for your consideration --

Very truly yours,

A handwritten signature in black ink, appearing to read "Matt Pappas", with a stylized flourish at the end.

Matthew Pappas

MSP:dg

cc: Ryan Pack
Anthony Gayle