

**ORIGINAL FILED**

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LOS ANGELES  
SUPERIOR COURT

**FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN THE COUNTY OF LOS ANGELES (CENTRAL DISTRICT)**

**PEOPLE OF THE STATE OF CALIFORNIA,**  
*ex rel.* **Rockard J. Delgadillo as the**  
**City Attorney for the City of Los Angeles,**  
**Plaintiff,**

**vs.**

**5<sup>th</sup> & HILL aka 5 HILL aka 5H aka**  
**CINCO LOMA, a criminal street gang**  
**sued as an unincorporated association;**  
**JESUS BARCENAS (Nene);**  
**EVERADO BAUTISTA aka**  
**EVERADO OSORIO (Flash);**  
**ADOLFO CATALA (Ghost, Loco);**  
**ALEX / ALEJANDRO DELATORRE**  
**(Looney, Toro);**  
**CHRISTIAN DUARTE (Tiny);**  
**JESUS ADRIAN GONZALEZ (Face, Chuy);**  
**MICHAEL ANTHONY GONZALEZ**  
**(XL, Loner, Stretch and Esclara);**  
**CARLOS EDGAR HERNANDEZ**  
**(Scrappy, Tiny);**  
**JUAN BAUTISTA OSORIO (Flame);**  
**CARLOS QUIROZ (Charlie);**  
**MARCO DAVID RIVERA (Huero, Miclo);**  
**GUSTAVO ROMAN, JR. (Perikin);**  
**CESAR TOVAR (Bam Bam);**  
**all as individuals; and**  
**DOES 1 through 120, inclusive;**  
**Defendants.**

Case No.: BC380877

**JUDGMENT GRANTING PERMANENT  
INJUNCTION, AWARDING  
DAMAGES AND ASSESSING CIVIL  
PENALTIES AGAINST 5<sup>th</sup> & HILL aka 5  
HILL aka 5H aka CINCO LOMA, a criminal  
street gang sued as an unincorporated  
association; JESUS BARCENAS (Nene);  
EVERADO BAUTISTA aka EVERADO  
OSORIO (Flash); ADOLFO CATALA  
(Ghost, Loco); ALEX/ALEJANDRO  
DELATORRE (Looney, Toro); JESUS  
ADRIAN GONZALEZ (Face, Chuy);  
CARLOS EDGAR HERNANDEZ (Scrappy,  
Tiny); JUAN BAUTISTA OSORIO (Flame);  
CARLOS QUIROZ (Charlie); MARCO  
DAVID RIVERA (Huero, Miclo);  
GUSTAVO ROMAN, JR. (Perikin) and  
CESAR TOVAR (Bam Bam)**

1 Plaintiff, the People of the State of California, filed a complaint seeking to abate a public  
2 nuisance consisting primarily of the illegal sales of heroin, a controlled substance, and activities in  
3 support of the illegal narcotics sales, including violence, threats of violence, and graffiti vandalism,  
4 through the use of what is commonly known as a "gang injunction," in a "Safety Zone" (a map of  
5 which is included as page 6), located in the City of Los Angeles, bounded by San Pedro Street to the  
6 east, 9<sup>th</sup> Street to the south, Olive Street to the west, and 2<sup>nd</sup> Street to the north, and extending 100  
7 yards to the outside of each of those boundary streets, against defendant 5<sup>th</sup> & Hill, a criminal street  
8 gang sued as an unincorporated association, thirteen (13) individual defendants, all members of  
9 defendant 5<sup>th</sup> & Hill gang, and those persons through whom defendant 5<sup>th</sup> & Hill acts, including but  
10 not limited to the gang's "Heroin Sales Associates."<sup>1</sup>  
11

12  
13 On Plaintiff's application, this Court (Department 85) entered a preliminary injunction, a  
14 "gang injunction," against all defendants under, *inter alia*, Civil Code section 3479. Plaintiff then  
15 filed its 1<sup>st</sup> Amended Complaint seeking damages under Penal Code section 186.22a(c) and civil  
16 penalties under Business & Professions Code section 17206. Plaintiff subsequently voluntarily  
17 dismissed without prejudice as unserved named individual defendant Christian Duarte (Tiny) and all  
18 fictitious "Doe" defendants, none of whom had been served. Defaults were duly entered against all  
19 non-dismissed defendants with respect to the 1<sup>st</sup> Amended Complaint, except for Michael Anthony  
20 Gonzalez, who answered the complaint on May 22, 2008.  
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24 <sup>1</sup> The People seek to include non-gang members through whom 5<sup>th</sup> & Hill conducts its heroin sales  
25 business. The evidence shows that, due to 5<sup>th</sup> & Hill's control of the heroin sales business in  
26 downtown Los Angeles, including the gang's use of violence to enforce their monopoly, any person  
27 selling heroin in the Safety Zone can be assumed to be acting under, in concert with, for the benefit  
28 of, at the direction of, or in association with defendant 5<sup>th</sup> & Hill. Therefore, a "Heroin Sales  
Associate" is defined as any person who has been arrested two or more times for a violation of  
Health & Safety Code section 11351 (possession for sales) and/or section 11352(a) (sales), where the  
violation occurred in the Safety Zone and the substance was alleged to be heroin. Any arrest where a  
finding of factual innocence was subsequently entered is not included.

1 Default judgment is entered against the following defendants: 5<sup>th</sup> & HILL aka 5 HILL aka 5H  
2 aka CINCO LOMA, a criminal street gang sued as an unincorporated association; JESUS  
3 BARCENAS (Nene); EVERADO BAUTISTA aka EVERADO OSORIO (Flash); ADOLFO  
4 CATALA (Ghost, Loco); ALEX / ALEJANDRO DELATORRE (Looney, Toro); JESUS ADRIAN  
5 GONZALEZ (Face, Chuy); CARLOS EDGAR HERNANDEZ (Scrappy, Tiny); JUAN BAUTISTA  
6 OSORIO (Flame); CARLOS QUIROZ (Charlie); MARCO DAVID RIVERA (Huero, Miclo);  
7 GUSTAVO ROMAN, JR. (Perikin) and CESAR TOVAR (Bam Bam).

9 Upon consideration of the papers filed in this action, including the declarations, other  
10 evidence submitted, this Court finds by clear and convincing evidence that service is proper under  
11 the circumstances, and makes the following additional finding as to all defendants defaulted herein.

- 12
- 13 a. Defendant 5<sup>th</sup> & Hill is a “criminal street gang” as defined in Penal Code  
14 section 186.22 (Street Terrorism Enforcement and Prevention "STEP" Act);
  - 15 b. Defendant 5<sup>th</sup> & Hill is a “gang” as defined for the purpose of a gang  
16 abatement injunction.<sup>2</sup>
  - 17 c. Defendant 5<sup>th</sup> & Hill is an “unincorporated association” as defined in Code of  
18 Civil Procedure section 369.5;
  - 19 d. Each of the eleven named individual defendants who are the subject of this  
20 default judgment is a “member” of defendant 5<sup>th</sup> & Hill gang as defined for the  
21 purpose of a gang abatement injunction.<sup>3</sup>
  - 22 e. A public nuisance caused by the conduct and activities of a criminal street  
23 gang exists in the Safety Zone;
  - 24 f. The conduct and activities of defendant 5<sup>th</sup> & Hill, its members including the  
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28 <sup>2</sup> *People v. Englebrecht* (2001) 88 Cal. App. 4<sup>th</sup> 1236, 1258.

<sup>3</sup> *People v. Englebrecht* (2001), 88 Cal. App. 4<sup>th</sup> 1236, 1260-1261.

1 13 named individual defendants, and those persons through whom defendant  
2 5<sup>th</sup> & Hill acts, including its "Heroin Sales Associates," as that term is defined  
3 in footnote 1, is a cause of the public nuisance that exists in the Safety Zone;

4 g. An injunction, a preliminary injunction, was issued in this action pursuant to  
5 Section 3479 of the Civil Code to abate gang activity constituting a nuisance;

6  
7 h. Each of Jesus Barcenas (Nene), Everado Bautista aka Everado Osorio (Flash),  
8 Adolfo Catala (Ghost, Loco), Alex/Alejandro Delatorre (Looney, Toro), Jesus  
9 Adrian Gonzalez (Face, Chuy), Carlos Edgar Hernandez (Scrappy, Tiny), Juan  
10 Bautista Osorio (Flame), Carlos Quiroz (Charlie), Marco David Rivera  
11 (Huero, Miclo), Gustavo Roman, Jr. (Perikin), and Cesar Tovar (Bam Bam),  
12 has maintained or contributed to the nuisance; and  
13

14 Good cause appearing for entry of judgment,

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

16 1. Defendant 5<sup>th</sup> & Hill, individual defendants Jesus Barcenas (Nene); Everado Bautista  
17 aka Everado Osorio (Flash); Adolfo Catala (Ghost, Loco); Alex/Alejandro Delatorre (Looney, Toro);  
18 Jesus Adrian Gonzalez (Face, Chuy); Carlos Edgar Hernandez (Scrappy, Tiny); Juan Bautista Osorio  
19 (Flame); Carlos Quiroz (Charlie); Marco David Rivera (Huero, Miclo); Gustavo Roman, Jr.  
20 (Perikin); and Cesar Tovar (Bam Bam); all members of defendant 5<sup>th</sup> & Hill, and all persons through  
21 whom defendant 5<sup>th</sup> & Hill acts, including but not limited to 5<sup>th</sup> & Hill's "Heroin Sales Associates,"  
22 as that term is defined in footnote 1, are enjoined and restrained from engaging in or performing  
23 directly or indirectly, any of the following activities in the Safety Zone:  
24

25 a. **Do Not Associate:** Driving, standing, sitting, walking, gathering or appearing,  
26 anywhere in public view or anyplace accessible to the public, with any known member of the 5<sup>th</sup> &  
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28

1 Hill gang, including but not limited to any of the named individual defendants<sup>4</sup>;

2           **b. No Intimidation:** Confronting, intimidating, annoying, harassing, threatening,  
3 challenging, provoking, assaulting or battering any person known to be a witness to any activity of  
4 5<sup>th</sup> & Hill, known to be a victim of any activity of 5<sup>th</sup> & Hill, or known to have complained about any  
5 activity of 5<sup>th</sup> & Hill;  
6

7           **c. No Firearms, Imitation Firearms, or Dangerous Weapons:** Anywhere in  
8 public view or anyplace accessible to the public: (1) possessing any firearm, imitation firearm,  
9 ammunition, or illegal weapon as defined in Penal Code section 12020, (2) knowingly remaining in  
10 the presence of anyone who is in possession of such firearm, imitation firearm, ammunition or illegal  
11 weapon, or (3) knowingly remaining in the presence of such firearm, imitation firearm, ammunition  
12 or illegal weapon;  
13

14           **d. No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any public  
15 property or private property of another, or possessing any spray paint container, felt tip marker, or  
16 other graffiti tool as defined in Penal Code section 594.2, including "slap tags";  
17

18           **e. Stay Away From Drugs:** Without a prescription, (1) selling, possessing, or  
19 using any controlled substance or related paraphernalia, including but not limited to rolling papers  
20 and pipes used for illegal drug use, (2) knowingly remaining in the presence of anyone selling,  
21 possessing, or using any controlled substance or such related paraphernalia, or (3) knowingly  
22 remaining in the presence of any controlled substance or such related paraphernalia;  
23

24           **f. No Drug Sales Activities:** Loiter anywhere in public view or anyplace  
25 accessible to the public in a manner and under circumstances manifesting the purpose and with the  
26 intent to commit an offense specified in Health & Safety Code section 11351 (possession for sale of  
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<sup>4</sup> *People ex rel Gallo v. Acuna* (1997) 14 Cal. 4th 1090, *cert. denied sub nom, Gonzalez v. Gallo* (1997) 521 U.S. 1121.

1 a controlled substance, including heroin) and section 11352(a) (sales of a controlled substance,  
2 including heroin). Circumstances that may be considered in determining whether a person has the  
3 requisite intent to engage in such drug sales activity include: (1) acts as a "look out," (2) transfers  
4 small objects or packages for currency in a furtive manner, (3) tries to conceal himself or herself or  
5 any object that reasonably could be involved in an unlawful drug-related activity, (4) uses signals or  
6 language indicative of summoning purchasers of illegal drugs, (5) repeatedly beckons to, stops,  
7 attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle,  
8 indicative of summoning purchasers of illegal drugs; (6) repeatedly passes to or receives from  
9 passersby, whether on foot or in a motor vehicle, money or small objects; (7) has been convicted in  
10 any court within this State within five years prior to a violation of this provision, of any violation of  
11 Health & Safety Code section 11351 (possession for sale of a controlled substance, including heroin)  
12 and section 11352(a) (sales of a controlled substance, including heroin); and (8) is currently subject  
13 to any order prohibiting his or her presence in any high drug activity geographic area; and

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15  
16 g. **Obey All Laws:** Failing to obey all laws that (1) prohibit violence and  
17 threatened violence, including murder, robbery by force or fear, assault and battery, (2) prohibit  
18 interference with the property rights of others including robbery, theft, driving or taking a vehicle  
19 without the owner's consent, and vandalism, or (3) prohibit the commission of acts which create a  
20 nuisance including the illegal sale of controlled substances and blocking the sidewalk or street;

21  
22 2. **Personal Service Required:** No person shall be subject to the provisions of this  
23 Judgment unless that person has been previously personally served with this Judgment;

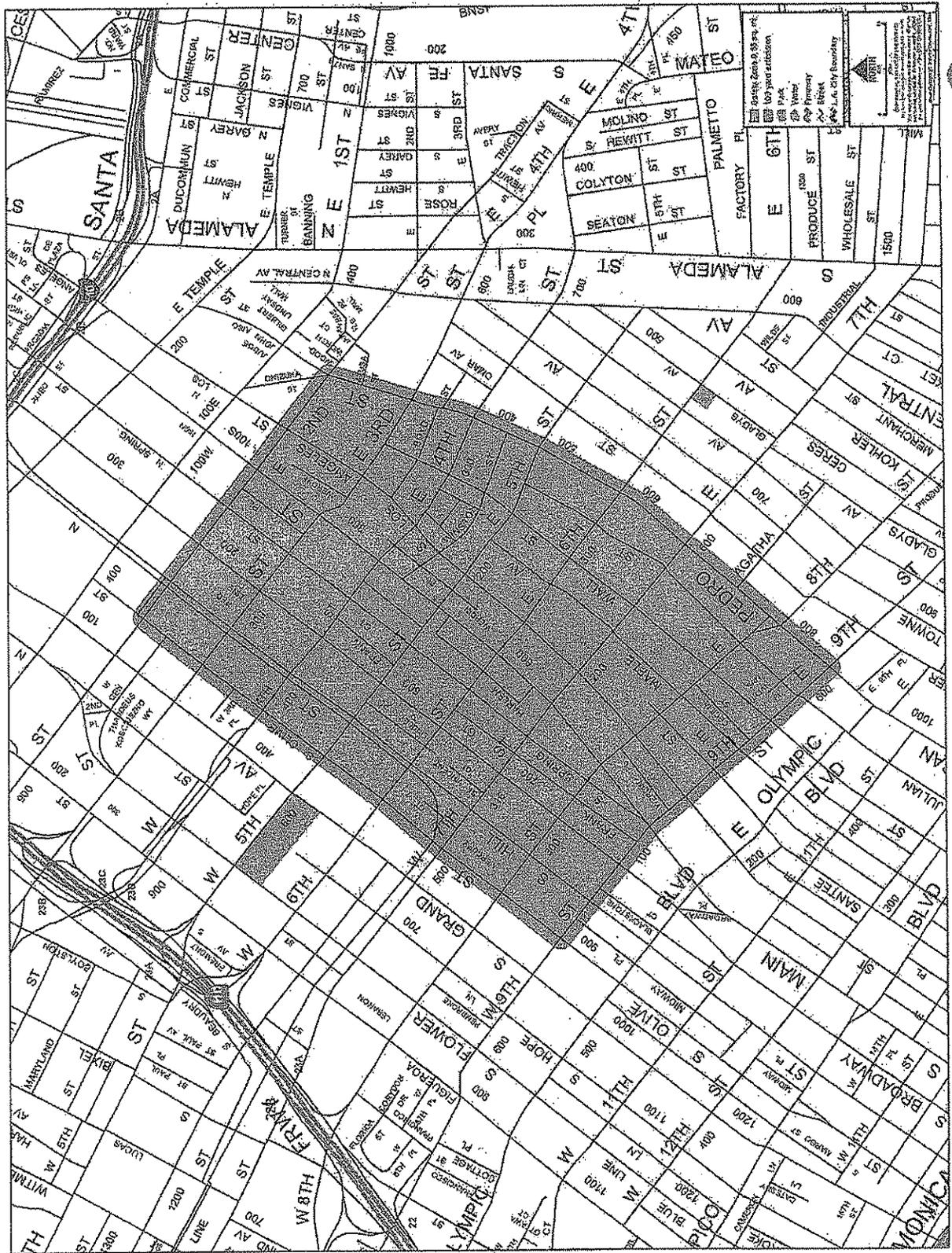
24 [text continued on page 8 after map]

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**Safety Zone**  
Office of the City Attorney  
San Francisco



1 [text continued from page 6]

2 3. **“Opt Out” Provision:** Any person (hereinafter, “Served Person”) who has been  
3 served with this injunction or any subsequent injunction entered in this action (hereinafter, “Gang  
4 Injunction”) may move this Court under this opt-out provision or any subsequent opt-out provision  
5 approved by this Court (hereinafter, “Opt Out Provision”), to be dismissed from this action. This  
6 Gang Injunction shall not be enforceable against a Served Person who is dismissed under this Opt  
7 Out Provision. The terms of the current Opt-Out Provision are as follows:

8 a. **Requirements:** Plaintiff agrees not to object to a Served Person’s motion to be  
9 dismissed under this provision, so long as the dismissal is to be without prejudice and with each side  
10 to bear its own costs and fees, and so long as the motion satisfies the following requirements:

11 (1) **Proper Notice:** A motion under this provision shall be made on proper  
12 notice, properly served on plaintiff’s counsel, and shall not be made on shortened time;

13 (2) **Not/No Longer a Gang Member:** Served Person must declare he/she  
14 is a reformed, former 5<sup>th</sup> & Hill gang member (or that he/she was never a 5<sup>th</sup> & Hill gang member),  
15 he/she is not active with the 5<sup>th</sup> & Hill gang, and he/she has renounced the 5<sup>th</sup> & Hill gang and gang  
16 life. This declaration regarding 5<sup>th</sup> & Hill and gang life is an essential part of this provision; and

17 (3) **Proof Required:** (A) Served Person must declare that he/she has not  
18 been arrested for the past five years, not including any time spent incarcerated, which must be true;  
19 (B) Served Person must declare that he/she has not been documented by law enforcement for the past  
20 five years to have been in the company or association of any known active 5<sup>th</sup> & Hill gang member,  
21 other than an immediate family member, which must be true; (C) Served Person must declare that  
22 he/she has not obtained any new 5<sup>th</sup> & Hill gang-related tattoos for the past five years, which must be  
23 true; and (D) Served Person must declare that he/she is gainfully employed or attending school, and  
24 has so been employed or attending school consistently for a period of one year, which must be true.

25 b. **No Third-Party Beneficiaries:** It shall not be a defense to any civil or  
26 criminal contempt charge or civil or criminal charge of any nature whatsoever, that any person  
27 including any Served Person was eligible to apply for dismissal under this provision.

28 c. **Effect in Other Proceedings:** Plaintiff shall not be bound by the criteria of

1 this Opt Out Provision (five arrest-free years, and other criteria), in any action, civil or criminal,  
2 other than a motion brought under this provision in this action. Moreover, a dismissal under this  
3 provision shall be without prejudice and shall not operate as a retraxit in any other action.

4 d. **Judgment Not Admissible:** This Gang Injunction shall not be admissible in  
5 any criminal or other civil action, and cannot be used against Served Person for any purpose  
6 whatsoever in any other action, other than in a civil or criminal contempt proceeding brought for  
7 violation of this judgment.

8 e. **Dismissed "Served Person" Committing New Violation:** If a Served Person  
9 who has successfully been dismissed from this Gang Injunction pursuant to this Opt Out Provision,  
10 fails to abide by all of the above "opt-out" provisions, such as by associating with known active 5<sup>th</sup>  
11 & Hill gang members, by getting new gang tattoos, or by being arrested for any crime that is  
12 determined to be a gang-related crime, then such Served Person may be re-served with this Gang  
13 Injunction, and will be required to comply with all of its terms; and

14 4. **Civil Penalties (Business & Professions Code § 17206)** Civil penalties under  
15 Business & Professions Code section 17206 in the amount of Eight Hundred Fifty Seven Thousand  
16 Five Hundred Dollars (\$857,500) are assessed in favor of Plaintiff, and against Defendant 5<sup>th</sup> & Hill,  
17 individual defendants Jesus Barcenas (Nene); Everado Bautista aka Everado Osorio (Flash); Adolfo  
18 Catala (Ghost, Loco); Alex/Alejandro Delatorre (Looney, Toro); Jesus Adrian Gonzalez (Face,  
19 Chuy); Carlos Edgar Hernandez (Scrappy, Tiny); Juan Bautista Osorio (Flame); Carlos Quiroz  
20 (Charlie); Marco David Rivera (Huero, Miclo); Gustavo Roman, Jr. (Perikin); and Cesar Tovar (Bam  
21 Bam), and each of them, jointly and severally, for their violations of Business & Professions Code  
22 section 17200;

23 5. **Damages Under Penal Code § 186.22a(c)** Damages in the amount of Four Million  
24 Two Hundred Thousand Dollars (\$4,200,000) are awarded in favor of Plaintiff, and against  
25 Defendant 5<sup>th</sup> & Hill, individual defendants Jesus Barcenas (Nene); Everado Bautista aka Everado  
26 Osorio (Flash); Adolfo Catala (Ghost, Loco); Alex/Alejandro Delatorre (Looney, Toro); Jesus  
27 Adrian Gonzalez (Face, Chuy); Carlos Edgar Hernandez (Scrappy, Tiny); Juan Bautista Osorio  
28 (Flame); Carlos Quiroz (Charlie); Marco David Rivera (Huero, Miclo); Gustavo Roman, Jr.

1 (Perikin); and Cesar Tovar (Bam Bam), and each of them, jointly and severally, pursuant to Penal  
2 Code section 186.22a(c);

3 6. **No Costs** Plaintiff has waived costs. All parties shall bear their own costs in this  
4 action.

5 DATED: January 6, 2009

MARY ANN MURPHY  
\_\_\_\_\_  
MARY ANN MURPHY  
JUDGE OF THE SUPERIOR COURT