

PCvd 10/19 quw

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CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS
BY *Ara Valencia*

Attorneys for CITY OF CERES

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF STANISLAUS

10 PEOPLE OF THE STATE OF CALIFORNIA,

Case No.: 1490969

11 Plaintiff,

**CITY OF CERES' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF MOTION TO QUASH
SUBPEONA**

12 vs.

DATE: October 20, 2015
TIME: 10:00 a.m.
DEPT: 26

13 FRANK CARSON, DALJIT ATWAL,
14 BALJIT SINGH ATHWAL,
15 GEORGIA DEFILIPPO,
16 SCOTT MCFARLANE,
17 WALTER WESTLEY WELLS,
18 CHRISTINA DEFELIPPO,
19 EDUARDO QUINTANAR

Defendant/Respondent.

19 **I. INTRODUCTION**

20 The City of Ceres (“Ceres”) moves to quash the subpoena duces tecum it has received for
21 various records in possession of the police department submitted by Defendant Baljit Athwal.
22 Defendant Athwal has not complied with Penal Code 1054, *et seq.* in filing the subpoena and thus
23 the request should be quashed.

24 **II. Legal Argument**

25 Stanislaus County Superior Court Local Rule, rule 4.03 entitled “Discovery in Criminal
26 Cases” requires compliance with Penal Code 1054, *et seq.* Penal Code 1054.5(a) states it is “the
27 only means by which the defendant may compel the disclosure or production of information from
28 prosecuting attorneys, law enforcement agencies which investigated or prepared the case against

1 the defendant, or any other persons or agencies which the prosecuting attorney or investigating
2 agency may have employed to assist them in performing their duties.” Ceres Police Department
3 clearly falls within the agency meanings contained within section 1054.5(a). Penal Code
4 1054.5(b) requires the requesting party to make an informal request of opposing counsel for the
5 desired materials and information. If within 15 days opposing counsel fails to provide the
6 requested information, then the party may seek a court order. (Penal Code § 1054.5(b).)

7 The received subpoena contains no indication of compliance with the Penal Code. As
8 such, this particular subpoena is legally defective and Ceres moves to quash the subpoena on
9 those grounds.

10 **III. Conclusion**

11 Based on the foregoing, the City of Ceres Police Department requests the court quash the
12 subpoena duces tecum signed by Defendant Athwal’s counsel on October 7, 2015.

13
14 Respectfully submitted.

15 DATED: October 16, 2015

CHURCHWELL WHITE LLP

16
17
18 By 
KARL SCHWEIKERT
Attorneys for *City of Ceres*

1 *People vs. Frank Carson, et al.*
2 *Stanislaus County Superior Court Case No. 1490969*

3 **PROOF OF SERVICE**

4 I am a citizen of the United States, over the age of 18 years, and not a party to or interested in this
5 action. I am employed by Churchwell White LLP and my business address is 1414 K Street,
6 Third Floor, Sacramento, CA 95814. On this day I caused to be served the following
7 document(s):

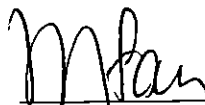
8 **MOTION TO QUASH SUBPOENA**

- 9 By United States Mail. I enclosed the documents in a sealed envelope or package
10 addressed to the persons at the addresses set forth below.
11 deposited the sealed envelope with the United States Postal Service, with the
12 postage fully prepaid.
13 placed the envelope for collection and mailing, following our ordinary business
14 practices. I am readily familiar with this business's practice for collecting and
15 processing correspondence for mailing. On the same day that correspondence is
16 placed for collection and mailing, it is deposited in the ordinary course of business
17 with the United States Postal Service, in a sealed envelope with postage fully
18 prepared.
- 19 By personal delivery. I personally delivered the documents to the persons at the
20 addresses set for the below. For a party represented by an attorney, delivery was
21 made to the attorney or at the attorney's office by leaving the documents in an
22 envelope or package clearly labeled to identify the attorney being served, with a
23 receptionist or an individual in charge of the office, between the hours of 9:00 am
24 and 5:00 pm. For a party, delivery was made to the party or by leaving the
25 documents at the party's residence with some person not younger than 18 years of
26 age between the hours of 8:00 am and 6:00 pm.
- 27 By Express Mail or another method of overnight delivery to the person and at the
28 address set forth below. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.
- By electronically transmitting a true copy [by agreement of the parties] to the
persons at the electronic mail addresses set forth below.

Martha Carlton-Magana, Esq.
1012 11th Street, Ste 103
Modesto, California 95354
Telephone: 209.524.5616

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

Executed on October 16, 2015, at Sacramento, California.



Margie Fair