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IN THE UTAH SUPREME COURT

WEBER COUNTY,

Plaintiff/Respondent,

v.

OGDEN TRECE, AKA CENTRO CITY
LOCOS, an alleged criminal street gang
sued as an unincorporated association; and
DOES 1 through 200,

Defendants.

**PETITIONERS' MOTION FOR
STAY PENDING APPEAL**

Appeal No. _____

District Court No. 100906446

Pursuant to Rule 8 of the Utah Rules of Appellate Procedure, Defendants/

Petitioners Daniel Callihan, Emmanuel Montoya, Roman Hernandez, and Evan Barros

(collectively, “Petitioners”) respectfully move this Court for an Order staying enforcement of the district court’s September 28, 2010 preliminary injunction (“Order”) until this Court has had an opportunity to resolve Petitioners’ October 4, 2010 Petition for Permission to Appeal Interlocutory Order, and, if permission is granted, for a further stay pending resolution of the underlying appeal. Petitioners previously sought this relief in the district court, but their motion was denied. *See* Declaration of Darcy M. Goddard in Support of Petitioners’ Motion for Stay Pending Appeal, filed concurrently herewith, at ¶ 3.

Unless the district court’s Order is stayed pending appeal, it will cause an immediate and irreparable deprivation of fundamental rights for hundreds of individuals. Just days ago, Ogden police began enforcing this unconstitutional mandate and, unless a stay is issued, enforcement will escalate in the coming days and weeks, causing dozens of arrests and violations of constitutional rights. There was no need for the district court to grant emergency relief to address what the County has described as a decades-old issue of gang-related crime, and there is no reason why this draconian remedy cannot wait until this Court has had an opportunity for meaningful review.

As a result, Petitioners are likely to succeed on the merits of their Petition; they will suffer irreparable harm from the unjust deprivation of constitutional rights unless a stay is granted; a stay will not substantially harm the County; and preventing the escalating enforcement of this unconstitutional order will serve, not harm, the public interest.

This Motion is supported by a Memorandum of Points and Authorities and the Declaration of Darcy M. Goddard in Support of Petitioners' Motion for Stay Pending Appeal, filed concurrently herewith, together with the other papers on file herein, including Petitioners' concurrently-filed Petition for Permission to Appeal Interlocutory Order.

RESPECTFULLY SUBMITTED this 4th day of October 2010.

By: David C. Reymann

PARR BROWN GEE & LOVELESS

David C. Reymann
Clemens A. Landau

ACLU OF UTAH

Darcy M. Goddard*
(*Utah admission pending; admitted in New York and Colorado)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of October 2010, a true and correct copy of the foregoing **PETITIONERS' MOTION FOR STAY PENDING APPEAL** was served via hand-delivery on the following:

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