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**IN THE SECOND JUDICIAL DISTRICT COURT**

**IN AND FOR WEBER COUNTY, STATE OF UTAH, OGDEN DEPARTMENT**

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WEBER COUNTY,

Plaintiff,

v.

OGDEN TRECE, AKA CENTRO CITY  
LOCOS, an alleged criminal street gang sued  
as an unincorporated association,

Defendant.

**MOTION TO SUSPEND  
INJUNCTION PENDING APPEAL**

**(Expedited Consideration Requested)**

Case No. 100906446

Judge Ernie W. Jones

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Pursuant to Rule 62(c) of the *Utah Rules of Civil Procedure*, movants Roman Hernandez,  
Chase Aeschlimann, and Jesse Aeschlimann (collectively, “Movants”) hereby request that this

Court suspend its Order Granting Permanent Injunction (“Permanent Injunction”) dated August 20, 2012, during the pendency of the appeal of this matter. To the extent that the Court’s Order Granting Preliminary Injunction dated September 21, 2010 (“Preliminary Injunction”) is still in effect, the Preliminary Injunction should likewise be suspended pending appeal.<sup>1</sup>

The basis for this motion is that the Permanent Injunction raises grave constitutional concerns and permanently curtails the fundamental rights of hundreds of individuals in Ogden. No Utah court has ever entered such a sweeping remedy, and the constitutionality of this remedy is a question of first impression in this state. Before the rights of hundreds of individuals are irremediably and permanently restrained, Utah’s Supreme Court should be given the opportunity to consider and rule upon the constitutionality of such an order.

This motion is supported by a supporting memorandum, filed concurrently herewith, together with the other pleadings and documents on file herein. Because of the exigencies presented by this matter, Movants respectfully request that this Court decide this motion on an expedited basis. A proposed order is attached hereto as Exhibit A.

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<sup>1</sup> The Court’s view of the status of the Preliminary Injunction is unclear because the Preliminary Injunction does not contain the customary language stating that it will be in effect only until a final order is entered, nor does the Permanent Injunction state that it supersedes the Preliminary Injunction. It is Movants’ position that entry of the Permanent Injunction automatically terminated the Preliminary Injunction as a matter of law. *See, e.g., Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund*, 527 U.S. 308, 314 (1999) (“Generally, an appeal from the grant of a preliminary injunction becomes moot when a trial court enters a permanent injunction, because the former merges into the latter.”); 43A C.J.S. *Injunctions* § 376 (“[W]here a judgment or decree for a permanent injunction is rendered, the order for a preliminary injunction is merged and ceases to have any further effect.”). Because neither Order so states, however, Movants request that the Court confirm this explicitly in the attached Order.

RESPECTFULLY SUBMITTED this 12th day of September 2012.

PARR BROWN GEE & LOVELESS

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By: David C. Reymann

Attorneys for Roman Hernandez, Chase  
Aeschlimann, and Jesse Aeschlimann

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 12th day of September 2012, a true and correct copy of the foregoing **MOTION TO SUSPEND INJUNCTION PENDING APPEAL** was served via hand-delivery on the following:

Dee W. Smith  
Christopher F. Allred  
Branden B. Miles  
WEBER COUNTY ATTORNEYS  
2380 Washington Blvd., Suite 230  
Ogden, Utah 84401-1464

and via U.S. Mail, postage prepaid, on the following:

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David C. Reymann

**EXHIBIT A**