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6 Attorneys for Petitioners,  
7 THE CITY OF LOS ANGELES, and  
ERIC GARCETTI, in his official capacity as  
8 Mayor of the City of Los Angeles

9 ***NO FEE – CAL. GOVT. CODE § 6103***

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

13  
14 THE CITY OF LOS ANGELES; ERIC  
15 GARCETTI, IN HIS OFFICIAL CAPACITY AS  
MAYOR OF THE CITY OF LOS ANGELES,

16 Petitioners,

17 vs.

18 LOS ANGELES APPAREL, INC.,

19 Respondent.

20STCP02482

Case No.:

**PETITION TO ENFORCE COMPLIANCE  
WITH SUBPOENA ISSUED BY THE  
CITY OF LOS ANGELES**

[NO VERIFICATION REQUIRED  
PURSUANT TO CODE CIV. PROC. §  
446(A)]



1 4. However, LA Apparel failed to provide *any* documents or information by the  
2 Subpoena’s return date of July 31, 2020, or to serve any written objections to the Subpoena or its  
3 requests. Although the City offered to extend LA Apparel’s time to respond to the Subpoena by  
4 two weeks to August 14, LA Apparel has refused to commit to provide the requested documents  
5 and information before August 31, 2020.

6 5. Petitioners, and more importantly LA Apparel’s workers, cannot afford to wait.  
7 In the midst of this pandemic, access to sick leave benefits and thus the ability to stay home  
8 when suffering a potential infection is literally a matter of life and death. The City must  
9 immediately receive the materials sought by the Subpoena, so that it can determine whether LA  
10 Apparel is providing its employees with paid sick leave in compliance with City law, and if  
11 necessary, take steps to protect those workers.

#### 12 **The Parties**

13 6. Petitioner City of Los Angeles is a municipal corporation existing under the  
14 Charter of the City of Los Angeles (the “City Charter”) and the laws of the State of California.  
15 Petitioner Eric Garcetti is, and at all relevant times was, the Mayor of the City of Los Angeles.

16 7. Pursuant to City Charter section 217, the Mayor has “the power and authority to  
17 examine witnesses under oath and compel the attendance of witnesses and the production of  
18 evidence.” At the Mayor’s request, the City Clerk shall issue subpoenas in the name of the City  
19 requiring such testimony or production of documents.

20 8. Respondent LA Apparel is a Delaware Corporation with its principal place of  
21 business located at 1020 East 59th Street, Los Angeles, California 90001. LA Apparel is  
22 registered to do business in California with the Secretary of State. LA Apparel manufactures and  
23 sells various garments of clothing. Shortly after the COVID-19 pandemic, LA Apparel shifted  
24 much of its operational capacity to manufacturing face masks.

#### 25 **The City’s Paid Sick Leave Laws**

26 9. Paid sick leave is critical to the protection of both workers and public health. It  
27 protects workers by ensuring that they have time to recover from illness and injury, and that they  
28 may do so without concern for their financial wellbeing. And paid sick leave protects public

1 health by eliminating the economic incentives to go to work while ill, which risks transmission  
2 of disease to other workers.

3 10. Because of the importance of paid sick leave, the City’s Minimum Wage  
4 Ordinance provides for sick time benefits for every employee who works in the City for the same  
5 employer for at least 30 days in a year. Under the Ordinance, employees are entitled to up to 48  
6 hours of annual sick leave.

7 11. Additionally, in an effort to address and limit the pandemic, on April 7, 2020  
8 Mayor Eric Garcetti issued a Public Order Under City of Los Angeles Emergency Authority  
9 regarding Supplemental Paid Sick Leave Due to COVID-19 (the “Supplemental Order”).

10 12. The Supplemental Order, which was updated on May 19, 2020, requires  
11 employers to provide qualifying employees in the City with paid sick leave if the employee takes  
12 time off due to COVID-19 infection or to care for a family member. Full-time employees are  
13 entitled to 80 hours of paid sick leave, and part-time employees are entitled to paid sick leave up  
14 to their average two week pay in February 2020.

15 13. The Supplemental Order applies to employers that have 500 or more employees  
16 within the City or 2,000 or more employees within the United States.

17 **The COVID-19 Outbreak at LA Apparel**

18 14. The ongoing COVID-19 pandemic constitutes the most serious public health  
19 crisis in the City in living memory. And one of the worst outbreaks of COVID in the City has  
20 occurred among LA Apparel’s employees at its downtown facilities.

21 15. On June 27, 2020, the LA County Department of Public Health ordered  
22 operations shut down at LA Apparel’s factory because of “flagrant violations of mandatory  
23 public health infection control orders.”

24 16. According to the Department of Public Health, LA Apparel violated its order by  
25 reopening with apparently new employees. As a result, on July 9 the Department of Public  
26 Health again ordered LA Apparel to cease operations until critical public health measures were  
27 implemented.

1 17. The scope of the LA Apparel outbreak was massive. The Department of Public  
2 Health has reported that as of July 10, more than 300 positive cases had occurred at LA  
3 Apparel's facilities. Public news reporting has placed the number of infections even higher.

4 18. Most tragically, four LA Apparel employees have died from COVID.

5 19. The Department of Public Health has also reported that LA Apparel failed to  
6 cooperate in its investigation of the outbreak, including by failing to provide a complete list of  
7 employees despite multiple requests from the Department of Public Health.

8 20. The LA County Department of Public Health allowed LA Apparel to reopen on or  
9 about July 23.

### 10 **The Subpoena**

11 21. In order to determine whether LA Apparel is complying with the Minimum Wage  
12 Ordinance's and the Supplemental Order's sick leave requirements, and whether additional  
13 action to protect LA Apparel's workers is necessary, at the Mayor's request the City Clerk issued  
14 the Subpoena on July 16, 2020.

15 22. The Subpoena's eight document requests seek several categories of documents  
16 which should be easily available to produce: documents sufficient to determine whether the  
17 Supplemental Order applies to LA Apparel, including documents sufficient to determine LA  
18 Apparel's average number of employees in 2019; documents sufficient to identify LA Apparel's  
19 employees; and documents sufficient to reflect LA Apparel's paid leave policies and to  
20 determine whether LA Apparel provided its employees with paid sick leave in accordance with  
21 the requirements of the Los Angeles Minimum Wage Ordinance. (*See* Exh. A, Attachment 1  
22 [Document requests].)

23 23. The Subpoena also seeks sworn testimony from a person most knowledgeable at  
24 LA Apparel regarding LA Apparel's employees, the company's paid leave policies, and the days  
25 on which LA Apparel was closed due to a City official's emergency order because of the  
26 COVID-19 pandemic. (*See* Exh. A, Attachment 2 [Topics for sworn testimony].)

27 24. However, the Subpoena provides that as an alternative to appearing for testimony,  
28 LA Apparel may instead provide written responses under oath to interrogatories attached to the

1 Subpoena. The interrogatories seek information regarding the same topics as the request for  
2 sworn testimony: LA Apparel’s employees, the company’s paid leave policies, and the days on  
3 which LA Apparel was closed due to a City official’s emergency order because of the COVID-  
4 19 pandemic. (*See* Exh. A, Attachment 3 [Interrogatories].)

5 25. The Subpoena directed LA Apparel to provide documents and interrogatory  
6 responses (if they chose to do so in lieu of appearing for sworn testimony) by no later than July  
7 31, 2020, and to appear for sworn testimony on August 14, 2020.

8 26. The Subpoena was personally served on LA Apparel by the Los Angeles Police  
9 Department on July 17. A true and correct copy of the proof of service of the Subpoena is  
10 attached hereto as Exhibit B. Instead of responding immediately to the subpoena—even with a  
11 phone call to arrange production or engage in discussions—LA Apparel did nothing for almost  
12 two weeks.

13 27. On the morning of July 22, 2020, counsel for the City received a voicemail on his  
14 office telephone from phone number (213) 923-7943. The phone number has been publicly  
15 advertised by LA Apparel as belonging to its Chief Executive Officer, Dov Charney. The  
16 voicemail contained no message, just a few seconds of static.

17 28. On July 29, 2020, twelve days after receipt of the Subpoena, counsel for LA  
18 Apparel finally contacted counsel for the City. Counsel for LA Apparel repeatedly  
19 acknowledged the City’s legal right to propound the Subpoena, but insisted that LA Apparel  
20 receive 30 additional days (more than six weeks total) to comply with the Subpoena.

21 29. On the morning of July 31, 2020, counsel for the City and LA Apparel again  
22 discussed the Subpoena. LA Apparel reiterated its demand for 30 additional days to provide  
23 information and documents in response to the subpoena.

24 30. In an effort to compromise, late on the afternoon of July 31, 2020, the City sent a  
25 letter to counsel for LA Apparel offering to extend the time to respond to the Subpoena by two  
26 weeks to August 14, 2020. The letter further limited the scope of the information sought  
27 regarding LA Apparel’s employees, in an effort to address concerns raised by LA Apparel’s  
28 counsel. The letter requested that LA Apparel commit in writing by the end of the day on

1 August 3, 2020 to providing documents and information in response to the Subpoena by August  
2 14.

3 31. LA Apparel failed to provide any documents or information in response to the  
4 Subpoena by the return date of July 31, 2020. LA Apparel also failed to serve any objections to  
5 the Subpoena or its requests. As of the filing of this Petition, LA Apparel has served neither any  
6 responsive documents and information or objections on the City. Also as of the filing of this  
7 Petition, LA Apparel has not responded to the City's July 31 letter, or the compromise offer  
8 therein.

9 32. Given the literally life and death stakes of the COVID-19 pandemic, the LA  
10 Apparel outbreak, and the necessity of complying with the City's sick leave laws, it is now  
11 necessary for the City to seek this Court's intervention in compelling LA Apparel's immediate  
12 compliance with the Subpoena and production of the documents and information sought thereby.  
13 The City has no plain, speedy, and adequate remedy to compel compliance in the ordinary course  
14 of the law.

15 WHEREFORE, the City prays for relief as follows:

16 1. For the Court to issue an order requiring Respondent Los Angeles Apparel to  
17 appear before this Court and show cause why it should not be ordered to obey and comply with  
18 the Subpoena;


19 2. After Respondent LA Apparel has had a chance to respond, for the Court to issue  
20 an order requiring Respondent Los Angeles Apparel to obey and comply with the Subpoena by  
21 promptly producing the documents and information sought by the Subpoena; and

22 3. For such other and further relief as the Court deems just and proper.  
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1 Dated: August 5, 2020

Respectfully submitted,

2 OFFICE OF THE LOS ANGELES CITY ATTORNEY

3  
 4 By:   
 5 Christopher S. Munsey  
 6 Attorneys for Petitioners,  
 7 THE CITY OF LOS ANGELES and  
 8 ERIC GARCETTI, in his official capacity as  
 9 Mayor of the City of Los Angeles

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# Exhibit A



THE CITY OF LOS ANGELES  
STATE OF CALIFORNIA

In the matter of APPEARANCE OF INDIVIDUALS NAMED  
AND PRODUCTION OF DATA AND RECORDS RELATED TO  
THE MAYOR'S ORDER CONCERNING SUPPLEMENTAL  
PAID SICK LEAVE DUE TO COVID-19 AND THE LOS  
ANGELES MINIMUM WAGE ORDINANCE

before the OFFICE OF THE MAYOR



SUBPOENA

Custodian of Records  
Los Angeles Apparel, Inc.  
1020 East 59th Street, Los Angeles, CA 90001

WE COMMAND YOU, That all and singular, business and excuses be laid aside, you bring, deliver, and produce to Christopher Munsey, 200 N. Spring Street, 14<sup>th</sup> Floor, Los Angeles, CA 90012, (213) 978-1846, chris.munsey@lacity.org, on July 31, 2020 the records, documents, and data in regard to the above-described matter to wit: Detailed in Attachment "1" attached hereto and made a part hereof. WE FURTHER COMMAND YOU, That all and singular, business and excuses be laid aside, you designate a person most knowledgeable to appear in person before the Mayor's designee in Room 460, City Hall East, 200 North Main Street, in the City of Los Angeles, County of Los Angeles, State of California, on August 14, 2020 at 10:00 a.m., then and there to testify under oath in regard to the above-described matter to wit: Detailed in Attachment "2" attached hereto and made a part hereof. Alternatively, and in lieu of appearing in person to testify under oath, you may provide written responses under oath to the interrogatories listed in Attachment "3" attached hereto and made a part hereof to Christopher Munsey, 200 N. Spring Street, 14<sup>th</sup> Floor, Los Angeles, CA 90012, (213) 978-1846, chris.munsey@lacity.org, by no later than July 31, 2020. For failure to so attend, testify under oath, or deliver records, you will be liable for the penalties provided in Section 19.21 of the Los Angeles Administrative Code, pursuant to the authority conferred by Los Angeles City Charter section 217.

IN WITNESS whereof, said The City of Los Angeles, at the request of the MAYOR of the City of Los Angeles, has caused this subpoena to be issued in its name, this 16th day of July, 2020.

ATTEST my hand and the seal of said City, the day and year last above written.

THE CITY OF LOS ANGELES

By *Hoey Sun Wilson*  
City Clerk

By *Stu...*  
Deputy City Clerk



**City of Los Angeles**  
**Mayor Subpoena to Los Angeles Apparel, Inc.**

**DEFINITIONS**

As used herein, the following terms shall have the meanings set forth below:

1. “YOU” means Los Angeles Apparel, Inc.
2. “RELATE TO” and “RELATING TO” mean relating to, pertaining to, referring to, regarding, concerning, constituting, embodying, containing, evidencing, memorializing, reporting, describing, explaining, discussing, referencing, or dealing with in any way, in whole or in part.
3. “DOCUMENT” means any medium on which information is recorded and includes all “writings” as defined in Section 250 of the California Evidence Code, including but not limited to writings, pictures, images, graphical depictions, sound and video recordings, emails, text messages, communications via mobile messaging apps, postings on social media, reports, memoranda, files, data, and other electronically stored information (including metadata), and tangible things. DOCUMENTS include originals, copies, and drafts of DOCUMENTS. Each and every draft, annotated version, or copy of a DOCUMENT in the possession of a different custodian is a separate DOCUMENT for purposes of this subpoena.
4. “ORDER” means the Public Order Under City of Los Angeles Emergency Authority regarding Supplemental Paid Sick Leave Due to COVID-19, issued by Los Angeles Mayor Eric Garcetti on April 7, 2020, and updated on May 19, 2020.
5. “EMPLOYEE” shall have the same meaning as in the ORDER: “an individual who performs any work within the geographic boundaries of the City [of Los Angeles] for an Employer.”<sup>1</sup> ORDER, § I.B.

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<sup>1</sup> The ORDER defines “Employer” to mean “a person in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.” ORDER, § I.B.

6. "ORDINANCE" means the Los Angeles Minimum Wage Ordinance, codified as Los Angeles Municipal Code §§ 187.00 to 187.12, and all relevant Rules and Regulations of any Designated Administrative Agency implementing the same.

**DOCUMENTS TO BE PRODUCED**

1. DOCUMENTS sufficient to determine the average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.

2. DOCUMENTS sufficient to determine the average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

3. DOCUMENTS sufficient to identify each current and former EMPLOYEE who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.

4. DOCUMENTS sufficient to identify each current and former EMPLOYEE who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

5. DOCUMENTS sufficient to reflect YOUR policies RELATING TO paid leave, including but not limited to sick leave or any other paid leave or paid time off, from July 1, 2016 to the present.

6. DOCUMENTS sufficient to determine whether YOU provided paid sick leave to YOUR EMPLOYEES in accordance with the ORDINANCE from July 1, 2016 to the present.

7. DOCUMENTS sufficient to determine whether YOU permitted YOUR EMPLOYEES to use accrued paid sick leave in accordance with the ORDINANCE from July 1,

2016 to the present.

8. DOCUMENTS sufficient to identify any days on which YOUR business was closed from March 9, 2020 to the present due to a City official's emergency order because of the COVID-19 pandemic.

**City of Los Angeles**  
**Mayor Subpoena to Los Angeles Apparel, Inc.**

**DEFINITIONS**

As used herein, the following terms shall have the meanings set forth below:

1. “YOU” means Los Angeles Apparel, Inc.
2. “RELATE TO” and “RELATING TO” mean relating to, pertaining to, referring to, regarding, concerning, constituting, embodying, containing, evidencing, memorializing, reporting, describing, explaining, discussing, referencing, or dealing with in any way, in whole or in part.
3. “ORDER” means the Public Order Under City of Los Angeles Emergency Authority regarding Supplemental Paid Sick Leave Due to COVID-19, issued by Los Angeles Mayor Eric Garcetti on April 7, 2020, and updated on May 19, 2020.
4. “EMPLOYEE” shall have the same meaning as in the ORDER: “an individual who performs any work within the geographic boundaries of the City [of Los Angeles] for an Employer.”<sup>1</sup> ORDER, § I.B.

**TOPICS FOR EXAMINATION UNDER OATH**

1. The average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.
2. The average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and

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<sup>1</sup> The ORDER defines “Employer” to mean “a person in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.” ORDER, § I.B.

EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

3. The identity of each current and former EMPLOYEE who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.

4. The identity of each current and former EMPLOYEE who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

5. YOUR policies RELATING TO paid leave, including but not limited to sick leave or any other paid leave or paid time off, from July 1, 2016 to the present.

6. Any days on which YOUR business was closed from March 9, 2020 to the present due to a City official's emergency order because of the COVID-19 pandemic.

**City of Los Angeles**  
**Mayor Subpoena to Los Angeles Apparel, Inc.**

**DEFINITIONS**

As used herein, the following terms shall have the meanings set forth below:

1. “YOU” means Los Angeles Apparel, Inc.
2. “RELATE TO” and “RELATING TO” mean relating to, pertaining to, referring to, regarding, concerning, constituting, embodying, containing, evidencing, memorializing, reporting, describing, explaining, discussing, referencing, or dealing with in any way, in whole or in part.
3. “IDENTIFY,” when used to refer to EMPLOYEES, means to provide names, titles, dates of employment, last known address, and contact information.
4. “ORDER” means the Public Order Under City of Los Angeles Emergency Authority regarding Supplemental Paid Sick Leave Due to COVID-19, issued by Los Angeles Mayor Eric Garcetti on April 7, 2020, and updated on May 19, 2020.
5. “EMPLOYEE” shall have the same meaning as in the ORDER: “an individual who performs any work within the geographic boundaries of the City [of Los Angeles] for an Employer.”<sup>1</sup> ORDER, § I.B.

**INTERROGATORIES**

1. State the average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.

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<sup>1</sup> The ORDER defines “Employer” to mean “a person in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.” ORDER, § I.B.



2. State the average number of EMPLOYEES, including but not limited to full-time EMPLOYEES, part-time EMPLOYEES, temporary or seasonal EMPLOYEES, and EMPLOYEES supplied through a temporary employment agency, who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

3. IDENTIFY each current and former EMPLOYEE who worked for YOU within the City of Los Angeles from January 1, 2019 to December 31, 2019.

4. IDENTIFY each current and former EMPLOYEE who worked for YOU within the United States of America from January 1, 2019 to December 31, 2019.

5. Describe YOUR policies RELATING TO paid leave, including but not limited to sick leave or any other paid leave or paid time off, from July 1, 2016 to the present.

6. State each day on which YOUR business was closed from March 9, 2020 to the present due to a City official's emergency order because of the COVID-19 pandemic.

# Exhibit B

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

In the matter of APPEARANCE OF INDIVIDUALS NAMED AND PRODUCTION OF DATA AND RECORDS RELATED TO THE MAYOR'S ORDER CONCERNING SUPPLEMENTAL PAID SICK LEAVE DUE TO COVID-19 AND THE LOS ANGELES MINIMUM WAGE ORDINANCE

1. At the time of service I was at least 18 years of age and not a party to this action, and I served the following documents described as **SUBPOENA** as described herein.

- 2. a. Party served: **Los Angeles Apparel, Inc.**
- b. Person served: **David H. Nisenbaum, agent for service of process**
- c. Address: **1020 East 59th Street  
Los Angeles, California 90001**

3. I served the party in item 2 by personally delivering the documents:

- a. On (date): 7/17/2020
- b. At (time): 0950 Hrs

4. Person serving (name, address, and telephone number):

- a. (name) DET. A. DELEON #32839
- b. (address) 200 N. MAIN ST 6<sup>th</sup> FLOOR  
LOS ANGELES, CA 90012
- c. (telephone number) 213-978-3716

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

**Date:**

A DeLeon 7/17/2020  
(signature)

PERSON SERVED: PAT HONDA WHOLE SALE OPERATIONS  
SHE STATED SHE REPRESENTS  
THE COMPANY L.A APPAREL.