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November 12, 2012

VIA FACSIMILE, E-MAIL, and U.S MAIL

Chief Charlie Beck
City of Los Angeles
Los Angeles Police Department
100 West First Street
Los Angeles CA 90012

Re: Demand for Retraction, News Release *Allen Harris v. Alex Tellez, City of Los Angeles*, Case No. BC 451880

Dear Chief Beck:

I am writing to request a retraction of the Los Angeles Police Department's News Release regarding the November 7 and 8, 2012 jury verdict in the case of *Allen Harris v. Alex Tellez and City of Los Angeles*, Case No. BC 451880. The press release contains numerous false assertions of fact and it portrays Mr. Harris and his family in a false light. This is a demand for a retraction pursuant to California Civil Code Section 48a. The following statements were made in the November 9, 2012 News Release article and are false and have defamed my client. These false statements have the potential to cause enormous special and general damages, as those terms are phrased in California law.

1) "This lawsuit stemmed from a Search Warrant and Arrest Warrant for an armed robbery that occurred on September 12, 2009. "

No Arrest Warrant was issued in connection with the armed robbery. In fact, LAPD Detective Arman Jose applied for an arrest warrant and it was denied by an Los Angeles Superior Court Judge.

2) "Two suspects were arrested and Mr. Harris was released."

As you are aware, no charges were filed against either of Mr. Harris' sons, Davion McCaleb and Henry Russell. Mr. Henry Russell was arrested on an alleged warrant for a failure to appear on an underlying infraction. However, the warrant was never produced. Mr. Russell was never identified as a suspect in the robbery for which a search warrant was obtained.

3) "Mr. Harris advised the officers that he had a preexisting an injury to his shoulder that occurred a week earlier after being assaulted. As a result the officers used two pair of handcuffs when detaining Mr. Harris in an effort to lessen any pressure or strain to his shoulder."

There was no evidence whatsoever that Mr. Harris stated the injury occurred a week earlier. The evidence at trial was that Mr. Harris and his sons repeatedly informed the officers that he had a stroke which prevented him from moving his left arm behind his head and back. The jury clearly rejected any assertion that the only information he provided was that he had a "preexisting shoulder injury" as two of your officers asserted. The evidence at trial also established that initially one set of handcuffs was used and it was not until Mr. Harris repeatedly complained of pain, that a second pair of handcuffs were used.

4) "Mr. Harris made no attempts to notify anyone that he was injured or upset. He refused medical treatment and an offer of an ambulance."

The evidence at trial showed that Mr. Harris complained of injury during the time he was handcuffed and numerous times to two LAPD Detectives after the handcuffs were removed. Mr. Harris also testified that there were no offers of medical treatment or an ambulance made to him that day.

5) "Mr. Harris did not seek any medical follow-up for his alleged injury until four days later."

Mr. Harris sought treatment at Centinela Hospital two days after the incident and the medical records utilized at trial prove this fact.

6) "Two handguns, a ski mask and an Iphone (phone believed to belong to one of the robbery victims) were recovered at the Search warrant location."

As you should know, both guns located at Mr. Harris home were registered. One was not a handgun. The handgun registered to Mr. Henry Russell was in connection with his employment as a Licensed Security Guard with the Bureau of Security and

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Investigative Services. The other firearm was legally registered to Allen Harris. The iPhone was returned as it was established it did belong to any robbery victim. As you no doubt are aware, these firearms were returned to the Harris family and no charges were filed.

Any reader of the News Release would likely conclude that Mr. Harris or his sons were involved in criminal activity. This is blatantly false, of which you, every officer at the scene of the incident and the City Attorney's office are fully aware. The News Release also attributed false attribution of statements to Mr. Harris. The false attribution of a statement to a person in a way that is false and defamatory is actionable under California law. *See, e.g. Masson v New Yorker Magazine, Inc.*, 501 U.S. 496 (1991).

Given the context of the entire New Release, you and the Los Angeles Angeles Police Department know why such a false attribution will cause damages to Mr. Harris. I wanted to make sure you are aware of the significant potential for damages caused by this false attribution and give you an opportunity to retract the false statements and make a correction.


Unless a retraction is communicated and correction is published in a manner and location that is calculated to reach the same readers as the original publication, we will have no choice but to pursue all legal remedies available to our client, including claims for exemplary damages based on the constitutional malice and common law malice that is apparent in your publication.

Mr. Harris is a disabled, law-abiding citizen and it is truly disappointing that instead of accepting responsibility for the injuries caused to my client by the unlawful actions of LAPD officers including Defendant Alex Tellez, and the jury verdict in his favor, that, you, as Chief of Police would make blatantly false statements about Mr. Harris in an effort to justify their misconduct.

We look forward to your reply.

Sincerely,

SCHONBRUN DESIMONE SEPLOW
HARRIS HOFFMAN & HARRISON, LLP



V. James DeSimone
Attorney for Allen Harris