

Clerk stamps date here when form is filed

FILED

Clerk of the Superior Court

APR 20 2012

By: J. VANDENOVER, Deputy

1 Person Seeking Protection

a. Your Full Name:

John McCann

Your Lawyer (if you have one for this case):

Name: Randall L. Winet, Stat State Bar No.: 116384

Firm Name: WINET, PATRICK & WEAVER

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 1215 West Vista Way

City: Vista State: CA Zip: 92083

Telephone: (760) 758-4261 Fax: (760) 758-6420

E-Mail Address: rwinet@wpwlaw.com

Fill in court name and street address:

Superior Court of California, County of San Diego South County Branch 500 Third Avenue Chula Vista, CA 91910

Court fills in case number when form is filed:

Case Number:

37-2012-00076181-CU-HR-SC

2 Person From Whom Protection Is Sought

Full Name: Stewart Payne

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Hearing Date: 5-10-12 Time: 1:30pm Name and address of court if different from above: Dept.: 9 Room: \_\_\_\_\_

4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

(1) [ ] All GRANTED until the court hearing.

(2) [ ] All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) [X] Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)



b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in Form CH-100, *Request for Civil Harassment Restraining Orders*, are:

- (1)  The facts as stated in Form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.
- (2)  Other (specify):  As set forth on Attachment 4b.

Defendant has First Amendment right to be present & to be heard at Board meetings and/or on official Board business.

B 4/24/12

⑤ Service of Documents by The Person in ①

At least  five  \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this Form CH-109, *Notice of Court Hearing*, to the person in ② along with a copy of all the forms indicated below:

- a. CH-100, *Request for Civil Harassment Restraining Orders* (file-stamped)
- b.  CH-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- e. CH-250, *Proof of Service of Response by Mail* (blank form)
- f.  Other (specify): \_\_\_\_\_

Date: 4/24/12

Judicial Officer   
Francis M. Donovan

**To the Person in ①**

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read Form CH-200-INFO, *What Is "Proof of Personal Service"?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Use Form CH-115, *Request to Continue Court Hearing and to Reissue Temporary Restraining Order*.

**To the Person in ② :**

- If you want to respond to the request for orders in writing, file Form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ①.
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to sell or turn in any firearms that you own or possess.**

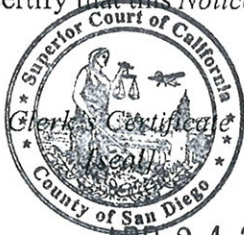
**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

**— Clerk's Certificate —**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.



APR 24 2012

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

A. Naranjo

# CH-110 Temporary Restraining Order

Person in (1) must complete items (1), (2), and (3) only.

## (1) Protected Person

a. Your Full Name: John McCann  
 Your Lawyer (if you have one for this case):  
 Name: Randall L. Winet State Bar No.: 116284  
 Firm Name: Winet, Patrick & Weaver

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):  
 Address: 1215 West Vista Way  
 City: Vista State: CA Zip: 92083  
 Telephone: 760-758-4261 Fax: 760-758-6420  
 E-Mail Address: rwinet@wpwlaw.com

Clerk stamps date here when form is filed.

**F I L E D**  
 Clerk of the Superior Court  
**APR 20 2012**  
 By: J. VANDENOVER, Deputy

Fill in court name and street address:

Superior Court of California, County of San Diego  
 South County Branch  
 500 Third Avenue  
 Chula Vista, CA 91910

Court fills in case number when form is filed.

Case Number: **37-2012-0076181-CU-HR-SC**

## (2) Restrained Person

Full Name: Stewart Payne  
 Description:  
 Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: African-American  
 Home Address (if known): 721 N. Fox Run Place  
 City: Chula Vista State: CA Zip: 91914  
 Relationship to Protected Person: No relation

## (3) Additional Protected Persons

In addition to the person named in (1), the following family or household members of that person are protected by the temporary orders indicated below:

Full Name	Sex	Age	Household Member?	Relation to Protected Person
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3--Additional Protected Persons" as a title. You may use Form MC-025, Attachment.

The court will complete the rest of this form.

## (4) Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: 5-10-12 Time: 1:30pm  a.m.  p.m.

**This is a Court Order**

**To the Person in 2 :**

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**5 Personal Conduct Orders**

Not Requested    Denied Until the Hearing    **Granted as Follows:**

a. You must **not** do the following things to the person named in (1)

and to the other protected persons listed in (3) :

- (1)  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- (2)  Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means, *except during Board meetings and/or communicating with petitioner as a Board member re: official Board business.*
- (3)  Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
- (4)  Other (specify):  
 Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

AS  
4/24/12

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in (1).

**6 Stay-Away Order**

Not Requested    Denied Until the Hearing    **Granted as Follows:**

a. You must stay at least 100 yards away from (check all that apply):

- (1)  The person in (1), *except during Board meetings.*
- (2)  Each person in (3)
- (3)  The home of the person in (1)
- (4)  The job or workplace of the person in (1)
- (5)  The school of the children of the person in (1)
- (6)  The place of child care of the children of the person in (1)
- (7)  The vehicle of the person in (1)
- (8)  Other (specify): Stay away from John McCann while present or attending meetings as a Board member from the Sweetwater Union High School District.

*Denied*

AS  
4/24/12

b. This stay-away order does not prevent you from going to or from your home or place of employment.

**7 No Guns or Other Firearms and Ammunition**

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

b. You must:

- (1) Sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.

**This is a Court Order.**



(2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in or sold. (You may use Form CH-800, Proof of Firearms Turned In or Sold, for the receipt.)

c.  The court has received information that you own or possess a firearm.

**Other Orders**

8  Not Requested  Denied Until the Hearing  Granted as Follows (specify):

*FILING FEE IS WAIVED*

*FD 4/24/12*

Additional orders are attached at the end of this Order on Attachment 8.

**To the Person in 1:**

**9 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a.  The clerk will enter this Order and its proof-of-service form into CARPOS.
- b.  The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c.  By the close of business on the date that this Order is made, the person in 1 or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_

Additional law enforcement agencies are listed at the end of this Order on Attachment 9.

**10 No Fee to Serve (Notify) Restrained Person [ ] Ordered  Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. [ ] The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b.  The person in 1 is entitled to a fee waiver.

11 Number of pages attached to this Order, if any: 0

Date: 4/24/12

*Francis M. Devaney*  
Judicial Officer **Francis M. Devaney**

**This is a Court Order.**



## Warnings and Notices to the Restrained Person in ②

### You Cannot Have Guns or Firearms

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑦ above. The court will require you to prove that you did so.

### Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and Form CH-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

### After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read Form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out Form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in ①.
- You must have Form CH-120 served by mail on the person in ① or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign Form CH-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use Form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

## Instructions for Law Enforcement

### Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

**This is a Court Order.**

**Temporary Restraining Order (CLETS-TCH)**  
(Civil Harassment Prevention)

### Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 3. The order *ends* on the expiration date in item ④ on page 1.

### Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

### Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

### Conflicting Orders

A protective order issued in a criminal case on Form CR-161 takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in full force. An *Emergency Protective Order* (Form EPO-001) that is in effect between the same parties and is more restrictive than other restraining orders takes precedence over all other restraining orders. (Pen. Code, § 136.2.)

(Clerk will fill out this part.)

### —Clerk's Certificate—



I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: APR 24 2012 Clerk, by A. Naranjo, Deputy

A. Naranjo

**This is a Court Order.**

Read *Can a Civil Harassment Restraining Order Help Me? (Form CH-100-INFO)* before completing this form. Also fill out Confidential CLETS Information (Form CLETS-001), with as much information as you know.

Clerk stamps date here when form is filed.

FILED  
2012 APR 24 AM 11:02  
CLERK SUPERIOR COURT  
SAN DIEGO COUNTY, CA

**1 Person Seeking Protection**

a. Your Full Name:

John McCann Age: 43

Your Lawyer (if you have one for this case):

Name: Randall L. Winet State Bar No.: 116384

Firm Name: Winet, Patrick & Weaver

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 1215 West Vista Way

City: Vista State: CA Zip: 02-83

Telephone: 760-758-4261 Fax: 760-758-6420

E-Mail Address: rwinet@wpwlaw.com

Fill in court name and street address:

Superior Court of California, County of San Diego  
South County Branch  
500 Third Avenue  
Chula Vista, CA 91910

Court fills in case number when form is filed.

Case Number:

**37-2012-00076181-CU-HR-SC**

**2 Person From Whom Protection Is Sought**

Full Name: Stewart Payne Age: Unk.

Address (if known): 721 N. Fox Run Place

City: Chula Vista State: CA Zip: 91914

**3 Additional Protected Persons**

a. Are you asking for protection for any other family or household members?  Yes  No If yes, list them:

Full Name	Sex	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are more persons. Attach a sheet of paper and write "Attachment 3a—Additional Protected Persons" for a title. You may use Form MC-025, Attachment.

b. Why do these people need protection? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 3b—Why Others Need Protection" for a title.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**This is not a Court Order.**



**4 Relationship of Parties**

How do you know the person in (2)? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 4—Relationship of Parties" for a title.

**5 Venue**

Why are you filing in this county? (Check all that apply):

- a.  The person in (2) lives in this county.
- b.  I was harassed by the person in (2) in this county.
- c.  Other (specify): \_\_\_\_\_

**6 Other Court Cases**

a. Have you or any of the persons named in (3) been involved in another court case with the person in (2)?

No  Yes If yes, check each kind of case and indicate where and when each was filed:

Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(2) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(3) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Guardianship	_____	_____	_____
(8) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(9) <input type="checkbox"/> Small Claims	_____	_____	_____
(10) <input type="checkbox"/> Criminal	_____	_____	_____
(11) <input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to you or any of the persons in (3) and the person in (2)?  No  Yes If yes, attach a copy if you have one.

**7 Description of Harassment**

Harassment means violence or threats of violence against you, or a course of conduct that seriously alarmed, annoyed, or harassed you and caused you substantial emotional distress. A course of conduct is more than one act.

a. Tell the court about the last time the person in (2) harassed you.

(1) When did it happen? (provide date or estimated date): April 16, 2012 at approximately 10:20 p.m.

(2) Who else was there?

Security guard Jorge Sanchez.

Security guard Juan Lopez.

Jimmy Delgado.

**This is not a Court Order.**

(3) How did the person in (2) harass you? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 7a(3)—Describe Harassment" for a title.

See Attachment MC-025, which includes the Declaration of John McCann, the statement of Jimmy Delgado, and the Declarations of security guards Jorge Sanchez and Juan Lopez.

(4) Did the person in (2) use or threaten to use a gun or any other weapon?

Yes  No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 7a(4)—Use of Weapons" for a title.

(5) Were you harmed or injured because of the harassment?

Yes  No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 7a(5)—Harm or Injury" for a title.

Fear of personal safety; resulting in continuing emotional distress.

(6) Did the police come?  Yes  No

If yes, did they give you or the person in (2) an Emergency Protective Order?  Yes  No

If yes, the order protects (check all that apply):

a.  Me b.  The person in (2) c.  The persons in (3)

Attach a copy of the order if you have one.

b. Has the person in (2) harassed you at other times?

Yes  No (If yes, describe prior incidents and provide dates of harassment below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 7b—Previous Harassment" for a title.

See Declaration of John McCann, paragraphs 12 through 14 attached to Form MC-025, and statements made by Mr. Payne to Jimmy Delgado about future harm following this incident.

**This is not a Court Order.**

**Check the orders you want.**

**8  Personal Conduct Orders**

I ask the court to order the person in (2) not to do any of the following things to me or to any person to be protected listed in (3):

- a.  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b.  Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- c.  Other *specify*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 8c—Other Personal Conduct Orders," for a title.

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The person in (2) will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

**9  Stay-Away Orders**

a. I ask the court to order the person in (2) to stay at least 100 yards away from (check all that apply):

- (1)  Me
- (2)  The other persons listed in (3)
- (3)  My home
- (4)  My job or workplace
- (5)  My school
- (6)  My children's school
- (7)  My children's place of child care
- (8)  My vehicle
- (9)  Other (specify): Me while present or attending meetings as a Board member for the Sweetwater Union High School District.

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b. If the court orders the person in (2) to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job?  Yes  No (If no, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 9b—Stay-Away Orders," for a title.

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**10 Guns or Other Firearms and Ammunition**

Does the person in (2) own or possess any guns or other firearms?  Yes  No  I don't know

If the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a gun, other firearm, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement or sell to a gun dealer any guns or firearms within his or her immediate possession or control.

**This is not a Court Order.**

**11 Immediate Orders**

Do you want the court to make any of these orders now that will last until the hearing without notice to the person in ②?  Yes  No (If you answered yes, explain why below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 11—Immediate Orders" for a title.

Notice of this request will be given to the Respondent. \_\_\_\_\_

**12  Request to Give Less Than Five Days' Notice**

You must have your papers personally served on the person in ② at least five days before the hearing, unless the court orders a shorter time for service. (Form CH-200-INFO explains What Is "Proof of Personal Service"? Form CH-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 12—Request to Give Less Than Five-Days Notice" for a title.

**13  No Fee for Filing or Service**

- a.  There should be no filing fee because the person in ② has used or threatened to use violence against me, has stalked me, or has acted or spoken in some other way that makes me reasonably fear violence.
- b.  The sheriff or marshal should serve (notify) the person in ② about the orders for free because my request for orders is based on unlawful violence, a credible threat of violence, or stalking.
- c.  There should be no filing fee and the sheriff or marshal should serve the person in ② for free because I am entitled to a fee waiver. (You must complete and file Form FW-001, Application for Waiver of Court Fees and Costs.)

**14  Lawyer's Fees and Costs**

I ask the court to order payment of my: a.  Lawyer's fees b.  Court costs

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
Meet w-witnesses & prepare Declar.	\$ 600	_____	\$ _____
Prepare TRO and attend TRO	\$ 900	_____	\$ _____
Prepare and attend Perm. Injunction	\$ 900	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper or Form MC-025 and write "Attachment 14—Lawyer's Fees and Costs" for a title.

**This is not a Court Order.**



Case Number:

**15** Additional Orders Requested

I ask the court to make the following additional orders (specify):

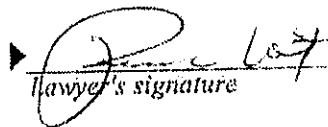
Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or Form MC-025 and write "Attachment 15 - Additional Orders Requested," for a title.

Lined area for specifying additional orders requested.

**16** Number of pages attached to this form, if any: \_\_\_\_\_

Date: April 23, 2012

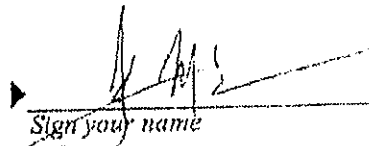
Randall L. Winet  
Lawyer's name (if any)

  
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: April 23, 2012

John McCann  
Type or print your name

  
Sign your name

**This is not a Court Order.**

SHORT TITLE: McCann, John

CASE NUMBER

ATTACHMENT (Number): 4*(This Attachment may be used with any Judicial Council form.)*ATTACHMENT 4 - RELATIONSHIP OF PARTIES

Mr. Payne is a member of the public and attends many Board meetings.

*(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)*

Page \_\_\_\_ of \_\_\_\_

*(Add pages as required)*

SHORT TITLE: McCann, John

CASE NUMBER:

ATTACHMENT (Number): 7a(3)

(This Attachment may be used with any Judicial Council form.)

ATTACHMENT 7a(3) - DESCRIBE HARASSMENT

Mr. Payne had made numerous derogatory comments toward John McCann at Board meetings prior to the incident on April 16, 2012. After the Board meeting on April 16, 2012, Mr. Payne threatened to knock Mr. McCann out and raised his right hand up in the air pointing directly at his face. Due to the concern of Mr. Payne's verbal and physical threat of potential violence, security guards were required to step in front of him and take him away from John McCann. Thereafter, Jimmy Delgado, a pastor and member of the Teachers' Union in San Ysidro, and both security guards say they witnessed the threat. Further, as Mr. Delgado was going back to his car, he spoke with Mr. Payne, who stated he "would kick John McCann's ass." Documents that support this TRO and credible threat of violence by Mr. Payne include:

- 1) The attached Declaration of John McCann with the statement of witness Jimmy Delgado;
- 2) The attached Declaration of security guard Jorge Sanchez;
- 3) The attached Declaration of security guard Juan Lopez.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page \_\_\_\_ of \_\_\_\_  
(Add pages as required)

## DECLARATION OF JOHN McCANN

I, JOHN McCANN, declare as follows:

1. I am over the age of 18 and make this Declaration based upon my own personal knowledge. If called as a witness, I would and could testify to the matters stated herein.

2. This Declaration is being submitted to the court in support of a Temporary Restraining Order and Permanent Injunction against Stewart Payne.

3. I am currently 43 years of age. I am married with four children. I work as a technical analyst in the healthcare field, and am a Lieutenant in the Navy Reserves. I served in the Navy in Iraq in 2009 and 2010.

4. At the time of this incident on April 16, 2012, I was (and am) a Board member of the Governing Board of the Sweetwater Union High School District. Previously, I have served as the President of the Governing Board of the Sweetwater Union High School District. I was elected to the Governing Board of the Sweetwater Union High School District in December of 2010.

5. Prior to serving on the Governing Board for the Sweetwater Union High School District, I served as a city councilman for the City of Chula Vista from 2002 through 2010. Prior to that, I served on the Planning Commission for the City of Chula Vista.

6. On April 16, 2012, I attended a Board meeting as a Board member of the Governing Board of the Sweetwater Union High School District. Following that meeting, after 10:00 p.m., I went outside the Board meeting and was interviewed by KUSI News. During that interview, some of the meeting attendees began to heckle and make noises while the interview was going forward. One of the persons who interrupted the interview in this fashion was Stewart Payne.

7. Following the interview, I recognized that several of the persons who had been heckling had different points of view on various issues. However, understanding that they had a right to state their position, I shook hands with several people and offered to shake hands with other persons.

8. After I shook hands or extended my hands to several people, I came to Stewart Payne. As I extended my right hand to greet Mr. Payne, he said, "Get out of my face, I'll knock you out." Immediately thereafter, I noticed Mr. Payne's right hand up in the air pointing directly at my face as though he was going to hit me. I was shocked that Mr. Payne would act in this manner and was immediately concerned about my own personal safety. Fortunately, a security guard (Jorge Sanchez) was right near me and immediately stepped between Mr. Payne and myself and told Mr. Payne to back away. He had his fellow security guard (Juan Lopez) immediately move me to an area away from Mr. Payne.

9. The security guards and I considered Mr. Payne's statements and actions to constitute a credible threat of violence. His statements to "get out of my face, I'll knock you out" combined with raising his right hand up as though he was going to hit me placed me in immediate fear for my own safety, and his conduct served no legitimate purpose. Mr. Sanchez prepared a report immediately following the incident, which is attached to his declaration.

10. Right after this incident, I was contacted by Jimmy Delgado, who is with the Teachers' Union in San Ysidro. Mr. Delgado said he witnessed Mr. Payne threaten me. Furthermore, Mr. Delgado told me later in a statement prepared entirely in his own words that he spoke with Mr. Payne following the incident on the way back to his car. According to Mr. Delgado, Mr. Payne told him that "he would kick John McCann's ass." I am aware that Mr. Delgado is not only with the Teachers' Union in San Ysidro, but also a pastor. The statement

prepared by Mr. Delgado in his own words is attached to this declaration as Exhibit "A".

11. I am seeking a Restraining Order and Injunction against Mr. Payne because I am concerned about my own personal safety. This not only includes the events of him threatening to knock me out and raising his right hand, but the events leading up to that incident, and immediately after.

12. As a Board member of the Sweetwater Union High School District, Mr. Payne has made several inappropriate comments to me leading up to the events of April 16, 2012. During a meeting back on June 20, 2011, a speaker at an open meeting made a disrespectful comment about persons in military service. I defended veterans who served in Iraq in response. Mr. Payne then said I should not talk about my military experience and I needed to "shut up" about it.

13. At a January 30, 2012 meeting, Mr. Payne talked about me in a derogatory fashion, and used the slur of calling me "Hoody Doody" and "stupid." Thus, it became obvious to me from the comments and statements made by Mr. Payne that he strongly disagreed with my viewpoints, whether it be personal, professional or political. Mr. Payne had been quite vocal about his opposition to my viewpoints.

14. At the Board meeting on April 16, 2012, Mr. Payne had made the comment that he and others were going to start breaking my relationships. When Mr. Payne then told me after the meeting he was going to knock me out and raised his right hand, that was a credible threat of violence and placed me in fear of my own safety.

15. I was concerned that I would be physically attacked based upon the comments and actions of Mr. Payne on April 16, 2012, and remain concerned about my own personal safety. Following the incident, I immediately contacted the police, who took a report. Since the incident, the events have been publicized and have caused me further emotional distress and loss

of sleep. I am still experiencing emotional distress relating to his threats of violence and actions on April 16, 2012.

16. I take great pride in my public service in serving in the military, previously serving as a city councilman for the City of Chula Vista, and serving on the Governing Board for the Sweetwater Union High School District. Although disagreements and heckling are sometimes part of the job of being a Board member, I should not have to live in fear of physical threats of being knocked out and potentially being struck by another person, such as Mr. Payne. I

am requesting the court to issue a Temporary Restraining Order and a Permanent Injunction to prevent Mr. Payne from making verbal threats or physical threats against me in the future.

17. My attorney checked with the Sweetwater Union High School District regarding any communication from Mr. Payne, and it appears that Mr. Payne made a Public Records Act Request for documents from the Sweetwater Union High School District the day after the April 16, 2012 incident, anticipating that I would be requesting this restraining order. A copy of the email Public Records Act Request made by Mr. Stewart to the Sweetwater Union High School District the day after the incident is attached as Exhibit "B".

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23 day of April, 2012 at Chula Vista, California.

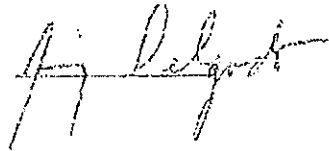
  
John McCann, Declarant

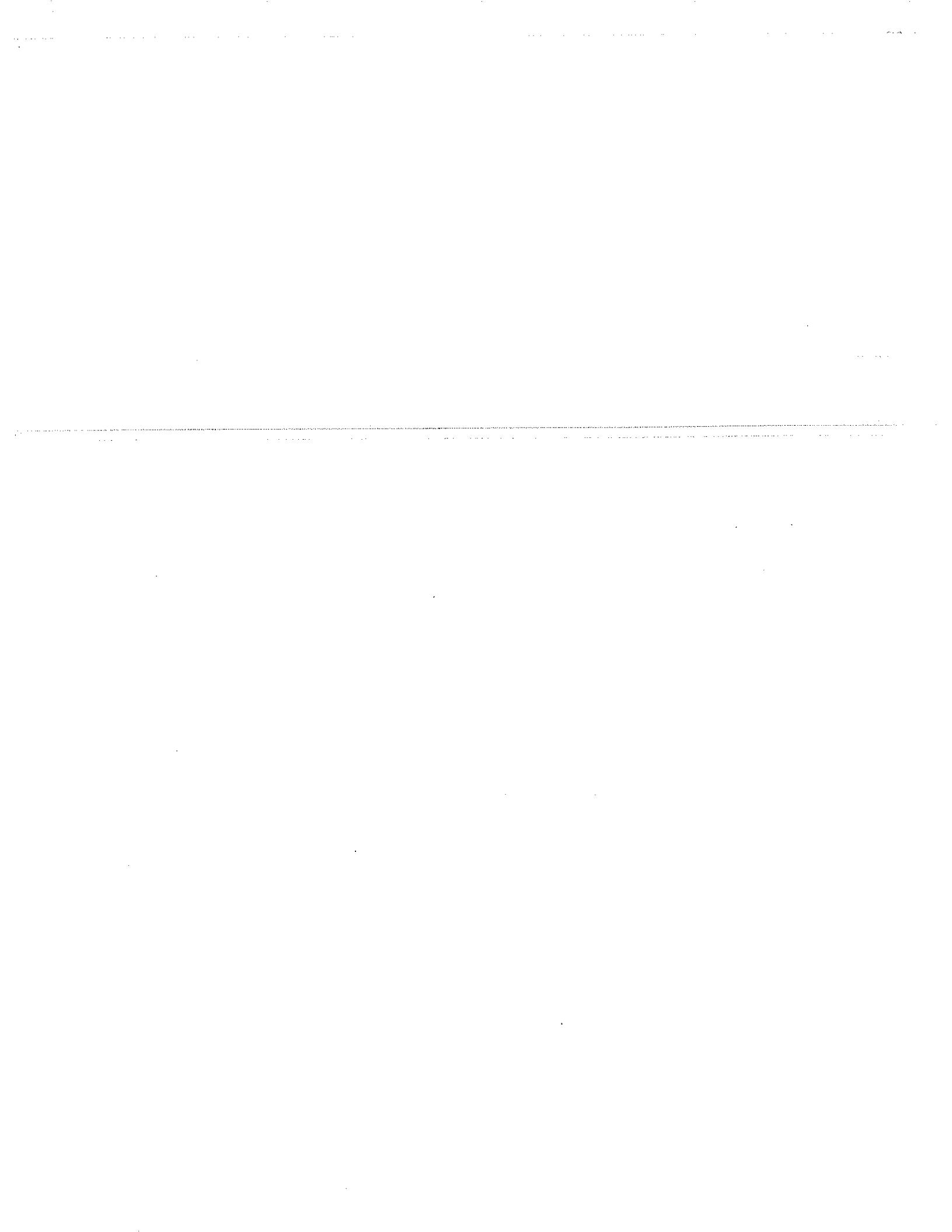
## Witness to Incident

Monday 16, 2012 School Board Meeting

During the interview that KUSI channel 9 was conducting with Sweetwater Union High School District Board member John McCann; Miss Shears looked at me and said "I told my Husband that I might go to Jail tonight, I want to go and slap him in the face" in which she was pointing at Board Member John McCann. After the conclusion of the interview, John McCann approached the bystanders who saw the interview in a non aggressive manner and attempted to shake their hands. Some members of the public did shake his hand in a amicable way. When Mr. McCann approached Mr. Payne, Mr. Payne did not shake his hand and aggressively pointed his finger in Mr. McCann's face. I instructed Mr. Payne to politely put his hand down because it was not worth getting into a fight. The security came and told Mr. Payne to "calm down" Mr. Payne said "I'm going to knock him out if he does not get out of here." As the security walked away I told John McCann and the security that Mr. Payne had issued a threat. Mr. McCann requested if I could issue a statement. On the way back to our cars in the parking lot Mr. Payne asked "who I was" and I said that I was with the Teachers Union in San Ysidro. I explained that it was always wise to put your hands in your pocket when you felt that you might become aggressive and he said that either way "he would kick John McCann's ass".

Jimmy Delgado





## DECLARATION OF JORGE SANCHEZ

I, JORGE SANCHEZ, declare as follows:

1. I make this Declaration based upon my own personal knowledge. If called as a witness, I would and could testify to the matters stated herein.
2. On April 16, 2012, I worked for JDS Exclusive Security Services, LLC. I am part owner of this business and have been working in providing security for more than 10 years. I have a business license as well as my security guard card.
3. On April 16, 2012, I was hired to work security at the Sweetwater Union High School District Board meeting from 5:00 p.m. to the conclusion of the meeting, which was projected to be at approximately 10:00 p.m. Following the meeting, while still on duty, several attendees at the meeting and Board members gathered outside at the parking lot to speak with media.
4. John McCann is a Board member, and he came out to speak with the media. Mr. McCann was being interviewed by the media, and some of the meeting attendees began to heckle, laugh at, make noises, and interrupt Mr. McCann. One of these individuals who was interrupting the interview was Stewart Payne. I recognized Mr. Payne as a person who attended Board meetings in the past since I had worked previous Board meetings.
5. At the end of the media interviews, Mr. McCann began to shake hands of persons around him. As he made his way around the crowd shaking peoples' hands, Mr. McCann extended his right arm toward Mr. Payne. Certain persons in the crowd had previously called Mr. McCann names and made inappropriate comments to him. When Mr. McCann extended his right hand to greet Mr. Payne, Mr. Payne said, "Get out of my face or I'll knock you out." Upon hearing this comment, I became immediately concerned about Mr. McCann's safety and walked

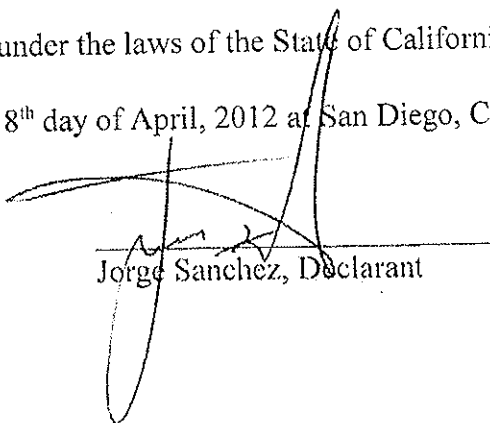
toward him as part of my job in performing security. I noticed Mr. Payne's right hand was up in the air and pointing directly at Mr. McCann's face. I immediately stepped between Mr. McCann and Mr. Payne and told them to step back and away from each other. I then had my partner, Juan Lopez, move Mr. McCann to an area where he would be taken away from Mr. Payne.

6. I separated Mr. Payne from the situation and I explained to him that I was there to keep peace and that I had acted in the fashion of stepping between the two men because I heard his inappropriate comment about knocking Mr. McCann out, and saw him raise his right hand up pointed directly at Mr. McCann's face. I was concerned that Mr. Payne was going to strike Mr. McCann based upon his statement and actions and immediately tried to de-escalate the situation.

7. I then escorted Mr. McCann back to the Board room for a short period of time and we left shortly thereafter.

8. I wrote a report immediately after the incident, and a copy of my 2-page Activity Report is attached as Exhibit "A" to this Declaration.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 18<sup>th</sup> day of April, 2012 at San Diego, California.

  
\_\_\_\_\_  
Jorge Sanchez, Declarant



# JDS EXCLUSIVE SECURITY SERVICES LLC

P.O Box 531983, San Diego CA 92153

Office/Fax 619 781-8694

24 Hr Dispatch 619 726-7929

jds.security@gmail.com

www.jdssecurity.com

## Activity Report

**Date:** 04/16/2012      **Time in:** N/A      **Time Out:** N/A  
**Shift:** Evening Shift      **Location:** SUHSD main office  
**Officer:** J. Sanchez # 001

Time	Description
	I, Jorge Sanchez, was assigned to work the Sweetwater Unified High School District Board meeting from 5pm to the conclusion of the meeting which was projected to end at about 10 pm. At the conclusion of the Board meeting, several attendees and Board members had gathered outside the parking lot to speak to media.
	I then noticed that some meeting attendees had begun to directly speak to Mr. McCann making accusations about fraud and also making comments of His positions as a SUHSD Board member. McCann began to give an interview to the media, some meeting attendees began to heckle and interpret the interview by laughing really loud and making noises as McCann spoke.
	I was later able to identify one of the individuals who was interrupting the interview as Stewart Payne. I had recognized Payne from all the Board meeting that I have attended which have been about 5 meetings in total. At the end of the media interview, McCann began to shake hands with some of the gathered supporters. As McCann made his way around the crowd shaking peoples hand, McCann extended his right arm towards Payne.
	I was close enough to hear both McCann and Payne speak but I was not focusing on what the conversation was about. My focus was on the safety of McCann

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	And the entire group who by this point had gotten a little louder and some
	People had begun to call McCann names and make inappropriate comments.
	McCann continued to shake hands with the gathered group and as McCann
	approached Payne, McCann with his extended right hand was greeted by Payne
	Who said "Get out of my face or I'll knock you out". I immediately stepped
	Between both gentlemen and noticed that Payne's right hand was up and was
	Pointing directly at McCann face
	I then instructed McCann and Payne to step back and away from each other.
	My partner (J. Lopez) moved McCann to an area where more distance was created
	Between McCann and Payne.
	I was then approached by Payne who began to explain that he felt as though
	McCann had gotten too close to him. I listened to Payne and ultimately informed
	Him that I was there to keep peace and order and that my reaction or the way I had
	Handled the situation was in the best interests of all involved and in no way
	Supportive or with bias of the situation. I also informed him that I had reacted in
	that fashion because of the following reasons, the comment that he had made,
	The proximity between both involved and also because I had noticed he was
	Pointing directly at McCann's face with his right hand.
	I then escorted McCann to the Board room and we were instructed to leave for the
	Evening since our service was no longer needed.
	Respectfully,
	Jorge Sanchez
	619.864.0691

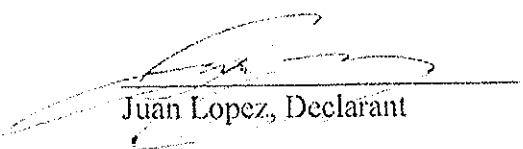
## DECLARATION OF JUAN LOPEZ

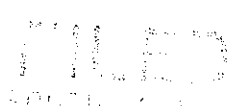
I, JUAN LOPEZ, declare as follows:

1. I am over the age of 18, and make this declaration based upon my own personal knowledge. If called as a witness, I would and could testify to the matters stated herein.
2. On April 16, 2012, I was employed as a supervisor at the company of JDS Exclusive Security Services, LLC. I had served as a security guard for more than three years, and I have my guard card from the State of California.
3. On April 16, 2012, JDS Exclusive Security Services, LLC was hired by the Sweetwater Union High School District to provide security for the Board meeting taking place that evening. JDS Exclusive Security Services, LLC had Jorge Sanchez and myself dispatched to conduct security that evening.
4. After the Sweetwater Union High School District Board meeting ended, several persons who attended the meeting and Board members went outside to the parking lot to speak with the media. John McCann was interviewed by the media. While Mr. McCann was being interviewed, several people were heckling, making noises and interrupting his interview. At the end of Mr. McCann's interview, he proceeded to shake hands with persons around him.
5. As Mr. McCann was shaking peoples' hands, he extended his right arm to Stewart Payne. Mr. Payne told Mr. McCann to get out of his face or he would knock him out. Mr. Payne then raised his right hand up with it pointing directly at Mr. McCann's face. Due to the fact that Mr. Sanchez and I were concerned that Mr. Payne may strike Mr. McCann, we stepped in. Mr. Sanchez stepped between Mr. McCann and Mr. Payne and told both of them to step away. Mr. Sanchez then spoke with Mr. Payne separately while I escorted Mr. McCann away from him.

6. Mr. Payne's comment about knocking Mr. McCann out and then raising his right arm as though he was going to hit him was without justification, and caused me concern that Mr. Payne might strike Mr. McCann.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 20<sup>th</sup> day of April, 2012 at San Diego, California.

  
\_\_\_\_\_  
Juan Lopez, Declarant

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Randall L. Winet, State Bar No. 116384</b> <b>WINET, PATRICK &amp; WEAVER</b> <b>1215 West Vista Way</b> <b>Vista, CA 92083</b>		FOR COURT USE ONLY    <b>2012 APR 24 AM 11:01</b>  CLERK OF SUPERIOR COURT SAN DIEGO COUNTY, CA
TELEPHONE NO: (760) 758-4261 FAX NO: (760) 758-6420 ATTORNEY FOR (Name): <b>John McCann</b>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 500 Third Avenue MAILING ADDRESS: same CITY AND ZIP CODE: Chula Visat, CA 91910 BRANCH NAME: South County Branch		CASE NUMBER: <b>37-2012-00076181-GU-HR-SC</b>  JUDGE:  DEPT:
CASE NAME:		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a.  Large number of separately represented parties    d.  Large number of witnesses

b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve    e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

c.  Substantial amount of documentary evidence    f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive

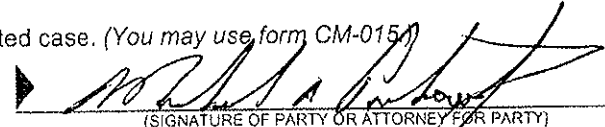
4. Number of causes of action (specify):

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: April 24, 2012

Randall L. Winet, State Bar No. 116384

(TYPE OR PRINT NAME)  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.