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4 Attorneys for Plaintiff
5 MINOR [REDACTED]

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

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11 MINOR [REDACTED], a minor, by and
Through his Guardian Ad Litem,
12 [REDACTED],

Case No. 7WIL07070

13 Plaintiffs,
14 v.
15 [REDACTED],
16 Defendant.

NOTICE OF AND MOTION TO ADMIT
EVIDENCE

17

18 TO [REDACTED], DEFENDANT, AND/OR HIS ATTORNEY(S) ON RECORD.

19

20 PLEASE TAKE NOTICE that on [REDACTED] at [REDACTED] or as soon therein as
21 counsel may be heard in the courtroom of [REDACTED] of the above titled court, the plaintiff will
22 move for an order to admit the following evidence: the surveillance video from the convenient
23 store, the autopsy report of the decedent, as well as separate, similar, incidents that have been
24 reported to the Los Angeles Police Department involving the defendant.

25 **STATEMENT OF FACTS**

26 On [REDACTED] at approximately [REDACTED], Decent [REDACTED], and his
27 girlfriend, Plaintiff [REDACTED], along with their two young children, pulled into a local
28 convenient store located at 4930 Pico Blvd in the City of Los Angeles. The Plaintiff parked her

1 vehicle in a space that is said to be reserved for those with a handicap plaque. While Decedent
2 [REDACTED] and his [REDACTED] were inside the convenient store, Defendant
3 [REDACTED] exited his vehicle and started an altercation with the Plaintiff, who had her
4 [REDACTED] in the car with her. During the altercation, Decedent [REDACTED]
5 [REDACTED] ran out of the convenient store and pushed the Defendant down to the ground. As
6 the Defendant was still on the ground, the Defendant revealed a firearm and pointed it at Decedent
7 [REDACTED]. While the Decedent was walking away, with his back turned toward
8 the Defendant, the Defendant shot the Decedent [REDACTED]. The Decedent ran
9 into the convenient store where he collapsed, and died.

10
11 DATED: December 13, 2018

Respectfully Submitted,

13 By: _____
14 SANDRA ADAMS
15 Attorney (Student Work)

16 **POINTS AND AUTHORITIES**

17 **PREVIOUS POLICE REPORTS: DEFENDANT [REDACTED]**

18 While in the interrogation with Detectives of the Los Angeles Police Department, Defendant
19 [REDACTED] stated that he “does not take karate”, and that he has “never been in a fight
20 before. Not even in high school”. I have several police reports naming the Defendant as the
21 aggressor, prior to the incident on July 19, 2018. Police reports are an exception to the hearsay rule
22 under Federal Evidence Rule 803(8) and therefore can be admissible in court as evidence.

23 In *Box v. California Date Growers Ass.* (1976) 57 Cal. App. 3d.267) police reports are an
24 exception to the hearsay rule and can be admitted into evidence, this includes traffic reports and
25 expert opinions on the matter (i.e. traffic accidents, shooting incidents, etc.). In *People v Khaled*
26 (2010) 186 Cal.App.4th Supp.) evidence involving a red-light traffic camera was admitted into
27 evidence and no police officer witnessed the event. Even though no police officers witnessed any of
28 the past incidents, and even though police reports are hearsay, they still can be admitted as

1 evidence.

2 AUTOPSY OF [REDACTED] INTO EVIDENCE

3 While in the interrogation with Detectives of the Los Angeles Police Department, Defendant
4 [REDACTED] stated that he felt that the Decedent [REDACTED], was
5 coming back “to finish the job” when the Defendant pulled out his firearm from his holster. The
6 Defendant also stated that the Decedent didn’t do anything else after he pushed the Defendant to the
7 ground. The autopsy report of Decedent [REDACTED] will show that the Decedent
8 had his back turned toward the Defendant. Autopsy reports are in fact public record and are
9 admissible in court as evidence. As California Evidence Code Section 1280 states: “Evidence of a
10 writing made as a record of an act, condition, or event is not made inadmissible by the hearsay rule
11 when offered in any civil or criminal proceeding to prove the act, condition, or event if all of the
12 following applies: (a) The writing was made by and within the scope of duty of a public employee.
13 (b) The writing was made at or near the time of the act, condition, or event”. A coroner is a public
14 official who performs autopsies and writes reports in discharge of his or her legal duties.

15 The opinions and findings contained in the autopsy report are what was observed and
16 explained by the coroner. In People v. Terrell (1955) 138 Cal. App. 2d 35.) it is explained that "It is
17 true that some diagnoses are a statement of a fact or a condition, for example, a diagnosis that a man
18 has suffered a compound fracture of the femur is a record of what the person making the diagnosis
19 has seen but this is not true where the diagnosis is but the reasoning of the person making it arrived
20 at from the consideration of many different factors." I'd also like to state that in People v. Beeler, 9
21 Cal.4th 953, the testifying physician's conclusion regarding the cause of death was based on his
22 direct observation and is no different in kind from any other diagnosis.

23 The autopsy will show that the Decedent [REDACTED] was not in a fighting
24 stance, therefore, was not instigating the incident any further. There was no just cause for the
25 Defendant to remove his firearm from his holster.

27 CONCLUSION

28 Based on the above, it is requested that this motion be granted.

DATED: December 13, 2018

Respectfully Submitted,

By: _____
SANDRA ADAMS
Attorney (Student Work)

Original Work Of
Sandra Adams