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5  
6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
7 **FOR THE COUNTY OF LOS ANGELES**

8 **THE PEOPLE OF THE STATE OF CALIFORNIA,** )

9 Plaintiff, )

10 v. )

11 **JOSE DOE,** )

12 Defendant. )

Case No.

DEMURRER TO  
INFORMATION AND  
REQUEST FOR DISMISSAL  
WITHOUT LEAVE TO  
AMEND (Pen. Code, § 1004,  
1008.)

DATE:  
TIME:  
LOCATION:

13 PLEASE TAKE NOTICE that on November 29, 2005 or as soon as the matter  
14 can be heard in Division 30 of the above court located at 210 W. Temple St., Los  
15 Angeles, CA 90012, the defendant, JOSE DOE will move the court to issue an Order  
16 sustaining a Demurrer to the Information and for dismissal without leave to amend.

17 The demurrer is brought pursuant to Penal Code 1004 subdivisions 2 and 4, to  
18 dismiss the charges brought against the Defendant on the following grounds:

19 1. The People have failed to plead the elements of the charged offenses with  
20 sufficient certainty to require the Defendant to be held to answer for the charged  
21 offenses.

22 2. The Information fails to plead the language of the statute and as charged,  
23 there is no conduct stated that would constitute a public offense.

24 This Demurrer is based on this pleading, the accompanying points and  
25 authorities, and all papers, records, evidence and oral testimony that may be presented  
26 at the hearing on this Demurrer.

DATED: November 10, 2005

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Respectfully submitted,  
FAY ARFA, A LAW CORPORATION

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Fay Arfa, Attorney for Defendant

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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3 I. "Both the demurrer and plea [to the complaint] must be put in, in  
4 open Court, either at the time of the arraignment or at such other time as  
5 may be allowed to the defendant for that purpose." (Pen. Code, § 1003.)

6 II. "The defendant may demur to the accusatory pleading at any  
7 time prior to the entry of a plea, when it appears upon the face thereof  
8 either:

9 2. That it does not substantially conform to the provisions of  
10 Sections 950 and 952, and also Section 951 in case of an indictment or  
11 information;

12 4. That the facts stated do not constitute a public offense." (Pen.  
13 Code, § 1003.)

14 III. "In charging an offense, each count shall contain, and shall be  
15 sufficient if it contains in substance, a statement that the accused has  
16 committed some public offense therein specified. Such statement may be  
17 made in ordinary and concise language without any technical averments  
18 or any allegations of matter not essential to be proved. It may be in the  
19 words of the enactment describing the offense or declaring the matter to  
20 be a public offense, or in any words sufficient to give the accused notice  
21 of the offense of which he is accused. In charging theft it shall be  
22 sufficient to allege that the defendant unlawfully took the labor or property  
23 of another." (Pen. Code, § 952.)

24 IV. "Due process of law requires that an accused be advised of  
25 the charges against him in order that he may have a reasonable  
26 opportunity to prepare and present his defense and not be taken by  
27 surprise by evidence offered at his trial." (*In re Hess* (1955) 45 Cal.2d 171,  
28 175; See also *People v. Bright* (1996) 12 Cal.4th 652 [Complaint must  
afford notice to the accused of offense charged, so that he or she may  
have reasonable opportunity to prepare and present defense].)

1 **STATEMENT OF THE CHARGES**

2 **I. PENAL CODE SECTION 115 [PROCURING OR OFFERING A**  
3 **FALSE OR FORGED INSTRUMENT TO BE FILED IN A PUBLIC**  
4 **OFFICE]**

5 The prosecution charged defendant Doe with five counts of offering a false  
6 or forged instrument to be filed in a public office (Pen. Code, § 115 subd. (a)) in  
7 relevant part:  
8

9 Count 1: On July 7, 2003, defendant Doe filed a false or forged  
10 “Lead-related Construction Certificate, Supervisor” with the City of Los  
11 Angeles Police Department, Davis Training Facility.

12 Count 2: On July 7, 2003, defendant Doe filed a false or forged  
13 “Lead-related Construction Certificate, Worker” card [Isaias ] with the City  
14 of Los Angeles Police Department, Davis Training Facility.

15 Count 3: On July 7, 2003, defendant Doe filed a false or forged  
16 “Lead-related Construction Certificate, Worker ” card [Israel ] with the City  
17 of Los Angeles Police Department, Davis Training Facility.

18 Count 4: On June 9, 2003, defendant Doe filed a “Lead-related  
19 Construction Supervision and Project Monitoring Course, certificate  
20 number LSPM-26176, [Jose Doe, Sr.] with the City of Los Angeles,  
21 Department of General Services, Office of the Purchasing Agent.

22 Count 5: On January 23, 2002, defendant Doe filed a “Lead-related  
23 Construction Supervision and Project Monitoring Course, certificate  
24 number LSPM-26176 [Jose Doe Sr.] with the City of Los Angeles Police  
25 Department, Davis Training Facility.

26 Each count alleged:

27 [T]hat the “instrument” “which, if genuine, might be filed, registered or  
28 recorded pursuant to Public Contract Code section 3300, as specified, in  
the City of Los Angeles Administrative Code Section 10.40.2, which

1 requires the City to determine that a prospective contractor is qualified, fit,  
2 and capable to perform a proposed contract, to wit: properly trained and  
3 certified by the California Department of Health Services pursuant to Health  
4 and Safety Code sections 105253 and 105254 to conduct lead-related  
5 construction work or abatement in California.”

## 6 **II. PENAL CODE SECTION 470 [FORGERY]**

7 The prosecution charged defendant Doe with seven counts of forgery (Pen.  
8 Code, § 470 subd. (b)) in relevant part:

9 Count 6: On July 7, 2003, defendant Doe forged the seal or  
10 handwriting of another, to wit: an altered and duplicated “Lead-related  
11 Construction Certificate, Supervisor” that falsely listed Jose Doe, Sr. as a  
12 valid bearer.

13 Count 7: On July 7, 2003, defendant Doe forged the seal or  
14 handwriting of another, to wit: an altered and duplicated “Lead-related  
15 Construction Certificate, Worker” card that falsely listed Isaias as a valid  
16 bearer.

17 Count 8: On July 7, 2003, defendant Doe forged the seal or  
18 handwriting of another, to wit: an altered and duplicated “Lead-related  
19 Construction Certificate, Worker” card that falsely listed Israel as a valid  
20 bearer.

21 Count 9: On June 9, 2003, defendant Doe forged the seal or  
22 handwriting of another, to wit: an altered and duplicated “Lead-Related  
23 Construction Supervision & Project Monitoring Course, certificate number  
24 LSPM-26176, that falsely listed Jose Doe as a valid bearer.

25 Count 10: On January 23, 2002, defendant Doe forged the seal or  
26 handwriting of another, to wit: an altered and duplicated “Lead-related  
27 Construction Supervision and Project Monitoring Course,” certificate  
28 number LSPM-26176 that falsely listed Jose Doe, Sr., as a bearer.

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Count 11: On June 9, 2002, defendant Doe forged the seal or handwriting of another, to wit: an altered and duplicated “Lead-related Construction Supervision and Project Monitoring Course,” certificate number LSPM-23918 that falsely listed Isaias , as a bearer.

Count 12: On June 9, 2002, defendant Doe forged the seal or handwriting of another, to wit: an altered and duplicated “Lead-related Construction Supervision and Project Monitoring Course,” certificate number LSPM-23917 that falsely listed Israel as a bearer.

1 **ARGUMENT IN SUPPORT OF DEMURRER**

2 **I. COUNTS 1-5, ALL VIOLATIONS OF PENAL CODE SECTION 115**  
3 **SUBDIVISION (A), MUST BE DISMISSED BECAUSE THE**  
4 **CHARGES FAIL TO STATE ANY STATE OR FEDERAL LAW**  
5 **THAT REQUIRES THE INSTRUMENT TO BE FILED,**  
6 **REGISTERED OR RECORDED**

7 **A. Introduction**

8 Pen Code section 115 provides: "Every person who knowingly procures  
9 or offers any false or forged instrument to be filed, registered, or recorded in any  
10 public office within this state, which instrument, if genuine, *might be filed, or*  
11 *registered, or recorded under any law of this state or of the United States,* is guilty  
12 of felony." (Italics added.)

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14 The Attorney General alleges that the instrument her "which, if genuine,  
15 might be *filed, registered or recorded pursuant to Public Contract Code section*  
16 *3300, as specified, in the City of Los Angeles Administrative Code Section*  
17 *10.40.2, which requires the City to determine that a prospective contractor is*  
18 *qualified, fit, and capable to perform a proposed contract,* to wit: properly trained  
19 and certified by the California Department of Health Services pursuant to Health  
20 and Safety Code sections 105253 and 105254 to conduct lead-related  
21 construction work or abatement in California."<sup>1</sup> (Italics added.)  
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24 \_\_\_\_\_  
25 <sup>1</sup>The following statutes and/or ordinances are cited in the Exhibit A:  
26 1. Public Contract Code section 3300





1 (2004) 34 Cal. 4th 254, 263.)" (*Fitch v. Select Products Company* (2005) 36 Cal.  
2 4th 812, 818; *People v. Gardeley* (1996) 14 Cal.4th 605, 621 ["When the  
3 language of a statute is 'clear and unambiguous 'and thus not reasonably  
4 susceptible of more than one meaning, ' ' ' "there is no need for construction, and  
5 courts should not indulge in it." ' ' ' [Citations.]]"

7 **C. Courts must Interpret Statutes by Assuming That the**  
8 **Legislature Knew of Existing Law**

9 Statutes are to be interpreted by assuming that the Legislature was aware  
10 of the existing law at the time of the enactment. (*People v. McGuire* (1993) 14  
11 Cal. App. 4th 687, 694.) [Legislature 'is deemed to be aware of statutes and  
12 judicial decisions already in existence, and to have enacted or amended a  
13 statute in light thereof.'].) If the Legislature had wanted to include local and  
14 municipal laws and/or ordinances, it would have done so. Its failure to do so  
15 shows that the Legislature did not intend to include those sources. (*Peters v.*  
16 *Superior Court* (2000) 79 Cal.App.4th 845, 850.)

19 **D. Penal Code Section 115 Omits Any Reference to Municipal or**  
20 **Local Ordinances And/or Regulations.**

21 Penal Code section 115 omits any reference to municipal or local  
22 ordinances and/or regulations. If the Legislature wanted to include municipal or  
23 local ordinances and/or regulations, it would have done so. (See, *People for the*  
24 *Ethical Treatment of Animals, Inc., et Al., v. California Milk Producers Advisory*  
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1 *Board* (2005) 125 Cal. App. 4th 871, 879. )

2 For example, several Code sections reference federal, state, or local laws  
3 or regulations. Business and Professions Code section 20021 subdivision (e)  
4 deals with franchisees who fail to comply with any federal, state or local law or  
5 regulation. (See also, Civ. Code, § 2983.3 [Motor vehicle used in commission of  
6 a crime, as a consequence of which the motor vehicle has been seized . . .  
7 pursuant to federal, state, or local law]; Health & Saf. Code, § 25548.1 [Borrower  
8 must comply with applicable federal, state, and local environmental and other  
9 laws] Pen. Code, § 337j [Unlawful for person to engage in certain gambling  
10 activities without having procured and maintained all federal, state, and local  
11 licenses required by law.]

12 Case law also demonstrates that Penal Code section 115 deals with  
13 instruments governed by state law. None of the instruments involved in published  
14 cases must be filed under local and/or municipal law. (See *People v. Garfield*  
15 (1985) 40 Cal.3d 192 [will admitted for probate]; see also *People v. Davidian*  
16 (1937) 20 Cal.App.2d 720, 723 [same]; *People v. Powers* (2004) 117 Cal.App.4th  
17 291 [monthly reports of fishing activity under Fish & G. Code, § 7923]; *People v.*  
18 *Parks* (1992) 7 Cal. App. 4th 883, 887 [temporary restraining order]; *People v.*  
19 *Tate* (1997) 55 Cal. App. 4th 663, 667 [work referral forms filed with court];  
20 *People v. Garcia* (1990) 224 Cal. App. 3d 297, 306-307 [False bail bonds].)

1 Here, the prosecution has alleged local and/or municipal ordinances and/or  
2 administrative regulations. The Public Contract Code section 3300 as referenced  
3 in the City of Los Angeles Administrative Code Section 10.40.2 lacks the status of  
4 a state and/or federal law. Therefore, the prosecution has failed to plead any  
5 public offense or any offense in violation of Penal Code section 115. Since the  
6 prosecution failed to allege viable charges and counts one through five must be  
7 dismissed.  
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1 663, 664; see also *People v. Gangemi* (1993) 13 Cal.App.4th 1790, 1795.) " The  
2 core purpose of Penal Code section 115 is to protect the integrity and reliability of  
3 public records.' [Citations.] This purpose is served by an interpretation that  
4 prohibits any knowing falsification of public records." (*People v. Feinberg* (1997)  
5 51 Cal.App.4th 1566, 1579.)

7 **C. Penal Code Section 115 Governs Instruments Required to Be**  
8 **Filed Under State or Federal Law**

9 Penal Code section 115, limits prosecution for filing false or forged  
10 instruments to those instruments which, "if genuine, might be filed, registered, or  
11 recorded" under state or federal law. Recording a false or forged instrument is not  
12 actionable under section 115 if the instrument was not legally entitled to be  
13 recorded. (See, *People v. Harrold* (1890) 84 Cal. 567, 569-570 [forged bill of sale  
14 assigning patent not entitled to be filed, and thus not actionable].)

17 Recently, in *People v. Powers, supra*, 117 Cal.App.4th 291, the issue  
18 concerned whether monthly reports of fishing activity constitute instruments under  
19 Penal Code section 115. *Powers* held that fishing activity reports, required to be  
20 filed with the California Department of Fish and Game, constitute instruments  
21 within the meaning of Penal Code section 115. (Fish & G. Code, § 7923; Cal.  
22 Code Regs., tit. 14, § 190). In finding that fishing activity records constitute  
23 "instruments" within the meaning of Penal Code section 115, the *Powers* court  
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1 noted that the Department of Fish and Game relies upon the records for resource  
2 analysis and management, and compiles and publicly disseminates a  
3 summarization of the information collected. (Fish & G. Code, §§ 7923, 8022.)  
4

5 **D. No Laws Cited by the Attorney General Require the Enumerated**  
6 **Items to be Filed, Registered or Recorded in Any Public Office in**  
7 **the State**

8 The Attorney General has charged defendant Doe with five counts of  
9 offering a false or forged instrument, namely lead-related certificates and/or  
10 training certificates. However, no State law authorizes the filing of the documents.  
11 (Health & Saf. Code, §§ 105253 & 105254 [dealing with lead-hazard reduction  
12 activities in California].)  
13

14 "The core purpose of Penal Code section 115 is to protect the integrity and  
15 reliability of public records." (*People v. Bell* (1996) 45 Cal.App.4th 1030, 1061;  
16 *People v. Parks, supra*, 7 Cal.App.4th at p. 887.) The "immediate purpose" of a  
17 public record is "to disseminate information to the public, or to serve as a  
18 memorial of official transactions for public reference." (E.g., *People v. Olson*  
19 (1965) 232 Cal.App.2d 480, 487 ["Falsification of public records refers to those  
20 writings which evidence the completed acts of public servants, such as the  
21 minutes of courts, public boards and committees, or those documents which  
22 under the law must be recorded by a public officer, or legal instruments, such as  
23 the wills of decedents."].)  
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1 Angeles Administrative Code Section 10.40.2 authorizes the alleged certificates  
2 to be filed in a public office. Since the Complaint fails to allege a crime, the  
3 charges must be dismissed.  
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1 contractor's fitness. And, sections 105253 and 105254 of the Health and Safety  
2 Code deal with lead-hazard reduction activities in California. Nothing in the  
3 statutes and/or ordinances relate to or reference one another. The charging  
4 offenses simply make no sense whatsoever.  
5

6 **B. Due Process Requires That One Accused of a Crime must Be**  
7 **"Informed of the Nature and Cause of the Accusation."**

8 "The 'preeminent' due process principle is that one accused of a crime must  
9 be 'informed of the nature and cause of the accusation.' Due process of law  
10 requires that an accused be advised of the charges against him so that he has a  
11 reasonable opportunity to prepare and present his defense and not be taken by  
12 surprise by evidence offered at his trial. [Citation]" (*People v. Jones* (1990) 51  
13 Cal.3d 294, 316.)  
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16 **C. The Allegations Fail to Give Adequate Notice of the Elements of**  
17 **the Charged Offenses**

18 The allegations fail to give adequate notice of the elements of the charged  
19 offenses. The prosecution has alleged so many Code sections that defendant  
20 Doe cannot determine the nature and cause of the accusation against him. (U.S.  
21 Const., Amend. VI.) Defendant Doe cannot decipher how the state laws, the  
22 municipal code sections and the administrative code sections apply to his case.  
23 Without adequate notice, defendant Doe cannot prepare and present his  
24 defense. Therefore, the charges must be dismissed.  
25

1           **IV. THE COMPLAINT FAILS TO ALLEGE A FORGERY CHARGE**  
2           **BECAUSE THE FORGERY STATUTE DOES NOT GOVERN FALSE**  
3           **CONSTRUCTION RELATED CERTIFICATES**

4           **A. Introduction**

5           The prosecution alleges that defendant Doe violated Penal Code section  
6 470 in that he forged the seal or handwriting of another in various lead related  
7 construction certificates and monitoring courses. (Counts 6-12.) Nothing in  
8 Penal Code section 470 deals with lead related construction certificates and/or  
9 monitoring courses. Therefore, the prosecution has failed to state a crime under  
10 the forgery statute and the charges must be dismissed.  
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14           **B. Forgery Statutes Omit False and Forged Construction**  
15           **Certificates**

16           Penal Code section 470 subdivision (b) provides: "Every person who, with  
17 the intent to defraud, counterfeits or forges the seal or handwriting of another is  
18 guilty of forgery." Penal Code section 470 further provides:  
19

20           (d) Every person who, with the intent to defraud, falsely makes,  
21 alters, forges, or counterfeits, utters, publishes, passes or attempts or  
22 offers to pass, as true and genuine, any of the following items, knowing  
23 the same to be false, altered, forged, or counterfeited, is guilty of  
24 forgery: any check, bond, bank bill, or note, cashier's check, traveler's  
25 check, money order, post note, draft, any controller's warrant for the  
26 payment of money at the treasury, county order or warrant, or request  
27 for the payment of money, receipt for money or goods, bill of  
28 exchange, promissory note, order, or any assignment of any bond,  
writing obligatory, or other contract for money or other property,

1 contract, due bill for payment of money or property, receipt for money  
2 or property, passage ticket, lottery ticket or share purporting to be  
3 issued under the California State Lottery Act of 1984, trading stamp,  
4 power of attorney, certificate of ownership or other document  
5 evidencing ownership of a vehicle or undocumented vessel, or any  
6 certificate of any share, right, or interest in the stock of any corporation  
7 or association, or the delivery of goods or chattels of any kind, or for  
8 the delivery of any instrument of writing, or acquittance, release or  
9 discharge of any debt, account, suit, action, demand, or any other  
10 thing, real or personal, or any transfer or assurance of money,  
11 certificate of shares of stock, goods, chattels, or other property  
12 whatever, or any letter of attorney, or other power to receive money, or  
13 to receive or transfer certificates of shares of stock or annuities, or to  
14 let, lease, dispose of, alien, or convey any goods, chattels, lands, or  
15 tenements, or other estate, real or personal; or any matter described  
16 in subdivision (b).

12 **C. Passing of Supervision Worker and Course Certificates Fail to**  
13 **Implicate the Forgery Statute**

14 Neither Penal Code section 470 nor any other statute mentions forged  
15 supervisor, worker, or course certificates. The false writing must be something  
16 which will have the effect of defrauding one who acts upon it as genuine. (*People*  
17 *v. Vincent* (1993) 19 Cal.App.4th 696, 700.)

19 For example, in *People v. Wong Sam* (1897) 117 Cal. 29, the court held  
20 that defendant's letter written to a customs official urging him not to permit a  
21 Chinese subject to land in port, with the forged signature of the interpreter to the  
22 police court in Los Angeles, could not support a conviction of forgery. The false  
23 letter was not an instrument which could defraud anyone in the statutory sense  
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1 but was merely an assault upon the veracity, reputation, and business standing of  
2 the person against whom it was aimed. Although possibly the basis for a criminal  
3 libel charge, it could not operate to defraud on its face and thus, was not a  
4 forgery. (*Id.* at p. 30.)

6 *Lewis v. Superior Court* (1990) 217 Cal.App.3d 379 reached the same  
7 result on analogous facts. Lewis was charged with forging President Reagan's  
8 signature on letters of endorsement mailed on behalf of state legislative  
9 candidates. The court held that section 470 applies only to fabricated documents  
10 that prejudice a legal right, usually a pecuniary or property right; it does not apply  
11 to a political letter or endorsement.  
12

14 "Unless the consequential harm of the fabrication is a loss, damage, or  
15 prejudice of a legal right, generally a pecuniary or property right, there is no harm  
16 of the kind to which the statute is directed and hence no forgery. The attempted  
17 persuasion of another to vote does not implicate such a right." (*Lewis, supra*, 217  
18 Cal. App. 3d at pp. 383-384.)

20 *Lewis* finds that the forgery statute was not intended to encompass all harm  
21 that flows from the deceptive use of false documents. Penal Code section 470 is  
22 derived from the common law and has a limited reach. At common law, forgery  
23 was the false making, with intent to defraud, of any writing which, if genuine,  
24 would apparently be of legal efficacy, or the foundation of a legal liability.  
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1 Therefore, false writings that give rise to no legal duty (i.e., letters recommending  
2 one as creditworthy or as an eminent physician) are beyond the reach of the  
3 statute. (*Lewis v. Superior Court, supra*, 217 Cal.App.3d at pp. 383, 391-392.)  
4

5 Here, the prosecution alleges that defendant forged the seal or handwriting  
6 of another in various lead related construction certificates and monitoring  
7 courses. (Counts 6-12.) Penal Code section 470 does not encompass lead  
8 related construction certificates and/or monitoring courses. Therefore, the  
9 prosecution has failed to state a crime under the forgery statute and the charges  
10 must be dismissed.  
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1 intended the specific provision alone to apply. In most instances, an overlap of  
2 provisions is determinative of the issue of legislative intent and requires courts to  
3 give effect to the special provision alone in the face of the dual applicability of the  
4 general provision and the special provision. (*People v. Jenkins, supra*, 28 Cal.3d  
5 at pp. 506-507; *People v. Cockburn, supra*, 109 Cal.App.4th at p. 1158.)

7 The court in *Cockburn, supra*, at pp. 1157-1158 outlined the general-versus-  
8 specific offense doctrine:  
9

10 "Generally, prosecutors may elect to proceed under either of two statutes  
11 that proscribe the same conduct. [Citation.] . . . "Where [a] general statute  
12 standing alone would include the same matter as [a] special act, and thus conflict  
13 with it, the special act will be considered as an exception to the general statute  
14 whether it was passed before or after such general enactment.' [Citations.]  
15 ""The doctrine that a specific statute precludes any prosecution under a general  
16 statute is a rule designed to ascertain and carry out legislative intent. The fact  
17 that the Legislature has enacted a specific statute covering much the same  
18 ground as a more general law is a powerful indication that the Legislature  
19 intended the specific provision alone to apply. Indeed, in most instances, an  
20 overlap of provisions is determinative of the issue of legislative intent and  
21 "requires us to give effect to the special provision alone in the face of the dual  
22 applicability of the general provision . . . and the special provision. . . ." [Citation.]"  
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1 Legislature, and the basic question for the court to determine is whether the  
2 Legislature intended that the more serious felony provisions would remain  
3 available in appropriate cases." [Citation.]' (*Mitchell, supra*, 49 Cal.3d at p. 1250,  
4 fn. 14.)" (*Cockburn, supra*, 109 Cal.App.4th at pp. 1158-1159.)

6 **C. Crimes Dealing with False Contractor Certificates Cannot Be**  
7 **Prosecuted Under the Forgery Statute**

8 Cockburn's rationale applies here. The prosecution charges defendant Doe  
9 with forgery. (Pen. Code, § 470 subd. (b).) Health and Safety Code sections  
10 105253 and 105254 punish certain violations of lead-hazard reduction activities in  
11 California. The general crime of forgery carries a maximum penalty of  
12 imprisonment for two, three, or four years while violations of Health and Safety  
13 Code sections 105253 and 105254 constitute misdemeanors punishable by not  
14 more than six months in the county jail. (Health & Saf. Code, §§ 105253 (d)  
15 105253 (e).)

18 Here, too, the Legislature unquestionably contemplated that the special  
19 statute might be violated by means of forgery. Therefore, such fraud  
20 may not be prosecuted under section 470. The forgery charges must be  
21 dismissed.  
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**CONCLUSION**

The Complaint fails to comply with due process in that it fails to advise defendant of the charges against him so that he has a reasonable opportunity to prepare and present his defense.

The complaint alleges five violations of Penal Code section 115. The charges reference several California Code sections and municipal laws and ordinances. Penal Code section 115 cannot statutorily apply to local laws and/or ordinances. Furthermore, Penal Code section 115 does not encompass the filing of lead related certificates. Defendant Doe cannot decipher how the municipal code and administrative code sections interrelate and apply to his case.

The other seven charges cannot be prosecuted under the forgery statutes. First, because more specific statutes apply. Second, because false certificates cannot be the subject of forgery.

Therefore, defendant Doe respectfully requests that the demurrer be sustained and that charges alleged in all counts be dismissed.

DATED:

Respectfully submitted,  
FAY ARFA, A LAW CORPORATION

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**DECLARATION OF FAY ARFA**

I, Fay Arfa, declare:

That I am the attorney of record for the above-named defendant.

That said case is currently calendared for November 29, 2005 for hearing.

I declare, under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed November 15, 2005 at Los Angeles, California.

\_\_\_\_\_  
Fay Arfa, Attorney for Defendant

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