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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

Kelly Lorenz, Alykhan Popat,

Plaintiffs,

v.

**Superior Court of California,
County of San Bernardino;
County of San Bernardino; and
DOES 1 through 51,**

Defendants.

Case No.: CIVSB2211434

SECOND AMENDED
Petition for Declaratory Relief
and Injunctive Relief

*Assigned for all purposes to the
Honorable Judge Daniel A. Ottolia*

Case Transferred from San Bernardino
Superior Court: 8/15/22

Filed: 6/3/22

PETITION

1. This matter seeks Declaratory relief to examine and determine the rights and powers of the parties relating to a General Order issued by successive Presiding Judges operating in their administrative capacity only, and an injunction against the County of San Bernardino and its Sheriff's Department from seeking to enforce the San Bernardino Court's General Order against those over whom it has no power.

PARTIES

A. Plaintiff

2. At all relevant times, Plaintiff Kelly Lorenz ("Lorenz ") is an adult

1 qualified to bring suit on her own behalf. At all relevant time, Lorenz resided in the
2 City of San Bernardino, County of San Bernardino , California. *She continues to be*
3 *an advocate for social justice and seeks to continue protests on court grounds that*
4 *are otherwise lawful in the State of California.* Lorenz lives and makes purchases in
5 San Bernardino County. Lorenz was directly injured by the misinterpretation, and
6 then application and enforcement of the General Order (Exhibit 1) and continues to
7 be injured by unlawfully being prevented from coming onto the court grounds in the
8 County of San Bernardino and peacefully protesting. This injury continues as the
9 **Superior Court of California, County of San Bernardino**, continues to issue the
10 order year after year. See Exhibit 5, General Order signed January 1, 2022.

11 3. At all relevant times, Plaintiff Alykhan Popat ("Popat ") is an adult
12 qualified to bring suit on his own behalf. At all relevant time, Popat resided in the
13 City of Highland, County of San Bernardino , California. *He continues to be an*
14 *advocate for social justice and seeks to continue protests on court grounds that are*
15 *otherwise lawful in the State of California.* Popat lives and makes purchases in San
16 Bernardino County. Popat was directly injured by the misinterpretation, and then
17 application and enforcement of the General Order (Exhibit 1) and continues to be
18 injured by unlawfully being prevented from coming onto the court grounds in the
19 County of San Bernardino and peacefully protesting. This injury continues as the
20 **Superior Court of California, County of San Bernardino**, continues to issue the
21 order year after year. See Exhibit 5, General Order signed January 1, 2022.

22 4. Plaintiffs Lorenz, and Popat are together identified hereinafter as
23 "Individual Plaintiffs" or "Plaintiffs."

24 5. Neither Lorenz nor Popat were subject to the jurisdiction of the
25 Superior Court of California County of San Bernardino or were subject to any
26 relevant litigation at the time of the events as expressed herein.

27 **B. Defendants**

28 6. Respondent **Superior Court of California, County of San**

1 **Bernardino**, (hereinafter SCCCSB) is the California Court *administration* for the
2 entire San Bernardino County Court system that issued and continues to promulgate
3 and enforce General Court Orders for its courts. **Superior Court of California,**
4 **County of San Bernardino**, (hereinafter SCCCSB) described here does not
5 operate in its constitutionally designated role, but rather refers to the agency that
6 supports the courts.

7 7. Defendant County of **San Bernardino** (“County” or “San
8 **Bernardino**”) is a municipality and is a political subdivision of the State of
9 California. The **San Bernardino Sheriff’s Department** (hereinafter “SBSD”) is a
10 non-separable department of the County of San Bernardino located in the County of
11 San Bernardino, California. **The San Bernardino Sheriff’s Department provides**
12 **court security for the Superior Court of California, County of San Bernardino. That**
13 **unit of the San Bernardino Sheriff’s Department is called “court services.”**
14 Additionally, the COUNTY and the SBSD utilizes large specialized enforcement
15 teams, known as Mobile Field Force squads, to facilitate the acts complained of in
16 this matter. These teams are arranged in approximately 12 person squads. In the
17 incident at issue three squads were utilized.

18 8. [Lt.] K. Ferber was the mobile field force lead that Plaintiffs are
19 informed and believe made the determination to detain and arrest Inland Empire
20 chapter Black Lives Matters (BLM) protestors, including Plaintiffs **Kelly Lorenz,**
21 **Alykhan Popat**, at the BLM protest at the Superior Court at issue in this lawsuit.

22 9. [Sgt.] Michael Landavazo was the leader of Squad 2, a Sheriff’s
23 Department contingent. It was he that began the initial arrests of BLM protestors,
24 and falsely claimed that Superior Court administration had authorised the arrests of
25 protestors that day.

26 10. The San Bernardino County Sheriff’s Department personnel known to
27 have been involved in material part are Lt. **K. Ferber**, (“Ferber) Sgt. **M.**
28 **Landavazo**, (Landavazo) Deputy **J. Fisk** (“Fisk”); and **F. Harris** (“Farris”).

1 11. At all relevant times, individual law enforcement officers, present,
2 participating or actively held out the General Order as a valid court order against
3 members of the public coming onto Superior Court grounds without actual legal
4 authority to do so, and in so doing dissuaded and continue to dissuade the public
5 (non-litigants) from otherwise lawful free speech activities,

6 12. DOES 1-20 are as yet unidentified individuals who knowingly
7 participated in or supported some or all of the wrongful acts as stated herein.

8 13. DOE 21-30, are unnamed supervisors and administrators who acted
9 contrary to the law or otherwise ordered or aided in the enforcement of the
10 GENERAL ORDER

11 14. DOES 31-50 are unnamed entities who acted contrary to the law or
12 otherwise ordered or aided in the enforcement of the GENERAL ORDER. They are
13 unnamed because their identity has yet to be ascertained.

14 15. Each entity is named individually named defendant and each DOE
15 defendant acted under color of state law and within the scope of his or her agency
16 and employment with the Superior Court administration, County of San Bernardino
17 and its Sheriff's Department.

18 16. Furthermore, Plaintiffs has assumed on information and belief that the
19 only government entity that operates the San Bernardino Sheriff's Department is the
20 County of San Bernardino itself. If it is later determined that another agency
21 operates the San Bernardino County Sheriff's Department, then Plaintiff will
22 substitute the entity as DOE 51.

23 17. At such times as these entities and individuals are identified, Plaintiffs
24 will seek to substitute the names of those entities and individuals for the currently
25 named DOE defendants.

26 JURISDICTION AND VENUE

27 18. Plaintiffs' claims arise out of a course of conduct involving acts by the
28 **Superior Court of California, County of San Bernardino**, (hereinafter SCCCSB)

1 in its administrative capacity, and for County of San Bernardino and the acts of its
2 officials and law enforcement officers of the County of San Bernardino and its
3 Sheriff's Department, including Sheriff Supervisors Ferber, Sgt. Landavazo, and
4 Sheriff Deputies Fisk and Harris and/or DOE 1- 51, with its headquarters located in
5 the City of San Bernardino, County of San Bernardino, State of California, and
6 within this judicial district. The subject event, and all acts described herein,
7 occurred in the City of San Bernardino, County of San Bernardino, State of
8 California.

9 19. This matter was initially filed with this court and assigned case number
10 CIVSB2126780. This matter was then removed to Federal Court by Defendants.
11 (Case No 5:22-cv-00143) However, on May 5, 2022, the Federal District Court
12 declined supplemental jurisdiction and dismissed without prejudice the First and
13 Second causes of actions for Declaratory and Injunctive relief which are now
14 asserted in this present action. The Honorable Judge Percy Anderson wrote,
15 "[u]nder the circumstances, a California court is better suited to address those
16 claims based on California law." (Ex 3 Federal Court Order Dk.73) Such orders toll
17 the statute of limitations for any such dismissed matters for 30 days. (See Id, and 28
18 U.S.C. § 1367(d)) Regardless, the injuries to Plaintiffs and like minded people
19 suffer are continuing. The Superior Court of the State of California, County of San
20 Bernardino, has reissued a General Order at issue containing the same prohibitions
21 against free speech, protests and picketing on its grounds. Both the SCCCSB and
22 the SCSD continue to hold out this General Court as applicable to any person
23 coming onto the court house grounds and prohibiting free speech, protests, and use
24 of amplification devices even though such use of the property do not violate any
25 State Statute, City Ordinance or lawfully enacted regulation. [The latest iteration of](#)
26 [the General Order is attached as Exhibit 5, signed by Judge Glenn Yabuno, January](#)
27 [1, 2022.](#) Its provisions last through 2023.

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 20. This is a claim for injunctive and declaratory relief. No exhaustion of
3 administrative remedies is necessary. None was provided for by the SCCCSB
4 despite its provision that seeks to affect substantive rights of the public who seek to
5 come onto SCCCSB courtgrounds and while seeking to protest do not violate any
6 California law. Nevertheless, plaintiffs timely filed the appropriate administrative
7 claims on January 29, 2021 relating to damages. The City provided notice of its
8 denial on March 16, 2021 within the requisite time as ascribed by Government
9 Code §§ 911, 911.2, and 911.3 thus the claim provisions and time limitations to file
10 suit enunciated in the California Government Tort Claims Act have been followed.
11 A copy of the claims of Plaintiffs are attached collectively as Exhibit 2. This claim
12 functions as notice.

13 **FACTS COMMON TO ALL CLAIMS**

14 21. Plaintiffs **Kelly Lorenz, Alykhan Popat**, advocate for the fair and
15 impartial treatment of African Americans by the justice system.

16 22. On July 31, 2020, Plaintiffs participated in a non-violent protest
17 outside of the San Bernardino Superior Court in downtown San Bernardino. They
18 neither obstructed the Court's business, nor made threats to any of its personnel, or
19 attempted to threaten or dissuade any witness, judge, prosecutor or juror from their
20 lawful duties.

21 23. They were there to protest the prosecution of a young black American
22 man, Lawrence Bender, who was shot by a City of Rialto police officer. An officer
23 involved shooting (OIS) as such invents have often been called. Bender had been
24 unarmed. The officer, watching the towing of a vehicle, had called police dispatch
25 to report he had a suspect "415," disturbing the peace. Five minutes after shooting
26 the officer told his sergeant what happened, in pertinent part:

27 *And he got up and he kinda wanted to fight me.*

28 *So, I already had my gun out.*

1 *So I put two into 'im....*

2 24. On July 31, 2020, the court administration had in place its General
3 Court Order, and continues to have a General Order, that prohibits all persons from
4 “engaging acts of demonstrating, picketing, parading, distributing literature or other
5 materials,... and engaging in oral or demonstrative protest, education or counseling.”
6 *The latest iteration of the General Order is attached as Exhibit 5, signed by Judge*
7 *Glenn Yabuno, January 1, 2022.* Its terms continue until the end of 2023.

8 25. On July 31, 2020, the Plaintiffs, Kelly Lorenz and Alykhan Popat, were
9 at the San Bernardino County Court house in San Bernardino to call attention
10 Lawrence Bender plight and the disproportionate treatment of black American men
11 (who are 3.23 times more likely than white Americans to be killed by police.)

12 26. Conversely, the same Superior Court administration has and continues
13 to allow expressive art that depicts the sorrow and tragedy of a law enforcement
14 officer harmed in the line of duty. The 15 foot tall statue, located in the central foray
15 to the Superior court house in Rancho Cucamonga, a division of the San Bernardino
16 County court system, is entitled "Officer Down," and “depicts a police officer
17 coming to the aid of a fatally wounded colleague. On the base is a plaque listing
18 officers killed since 1903 in San Bernardino County.” (Press report)

19 27. The San Bernardino Superior Court General Order relating to political
20 speech is not content neutral. While the message that honors fallen officers is an
21 important one, the Superior Court (or the San Bernardino Sheriff with consent of the
22 Court) chooses not to allow persons to speak out on its property against unjustified
23 law enforcement shootings of unarmed African Americans. Such as the case of
24 Lawrence Bender. This is a discrimination based on the application of an otherwise
25 neutral rule.

26

27

28

28.



29. Photographs of the 15 foot tall statue/memorial in the main foray at the Rancho Cucamonga division of the San Bernardino County Superior Court entitled "Officer Down."

30. Moreover, the SCCCSB use of the General Order is not content neutral. The SCCCSB chooses what persons may protest on its court grounds based on its perception of the group to which they belong. While allowing some protests, the court takes into account or classes protest by the acts and messages of individuals within a group, and then attributes those acts a group, and to each member of that group. In essence, SCCCSB and SBSD form an opinion about a group and all its members based on the isolated acts of a few members of that group, and then, as in this case, deny them access to court grounds and/or deny all persons within that group the ability to peacefully protest on court grounds. Thus, failing to be content neutral, SCCCSB and SBSD act in violation and inconsistent with the laws of the State of California and the U. S. Constitution. Demonstrations that support the courts and/or prosecutions are allowed to take place.

31. SCCCSB officials demanded that the Sheriff Department, including

1 court services, enforce the General Order over a series of meetings that took place
2 before a July 31, 2020 Black Lives Matter (BLM) protest was planned.

3 32. On July 31, 2020, Sheriff Department personnel sought to enforce the
4 General Order as directed. A Supervisor for Court Services, the SBSB unit in
5 charge of court security, threatened to arrest protestors who had assembled for a
6 BLM protest and who had gathered outside the SCCSB courthouse in downtown San
7 Bernardino, if the protestors did not comply with the San Bernardino Superior Court
8 General Court order that prohibited protest on its grounds *outside* the courthouse.
9 *At the time of the subsequent arrests of protestors*, Deputies did not announced an
10 unlawful assembly or any other State Law other than claim that the protestors were
11 in violation of the San Bernardino Court's General Order.

12 33. A Supervisor for SCCSB Court Services, the SBSB unit in charge of
13 court security, violently arrested BLM activist Avery Garey as Garey was leading a
14 chant in front of a dozen protestors, including Petitioners Kelly Lorenz, Alykhan
15 Popat. The same SCCSB Court Services supervisor, a Sergeant with SCSD
16 announced to the group of protestors that Avery Garey was arrested during the
17 process of being served with the court order. He then demanded that all protestors
18 leave court grounds. Avery Garey had violated no State law, and probable cause to
19 believe he did did not exist. Moreover, there was no probable cause to believe that
20 any protestor, and there were only 12 present at the time of Garey's arrest, had
21 violated a State law.

22 34. On July 31, 2020, Plaintiffs Kelly Lorenz, Alykhan Popat, were
23 arrested. At the time they were arrested they were told by Sheriff personnel that they
24 had violated the Superior Court's General Order prohibiting protests on Court
25 Grounds. Later, Plaintiffs Kelly Lorenz and Alykhan Popat were cited for
26 trespassing in violation of Penal Code 602.1. (Interference with a public business).
27 Neither they, nor anyone present who took part in the BLM protest, obstructed, or
28 intimidated court patrons or staff, officers of the court, or litigation participants.

1 35. Plaintiffs Kelly Lorenz and Alykhan Popat did not interfere with Court
2 business, and no reasonable officer would believe that to be the case.

3 36. Plaintiffs are informed and believe, and seek declaratory relief to
4 determine and announce, that the court order is invalid as used by the deputies on
5 July 31, 2020 as the basis for seeking Plaintiff's arrests.

6 37. The arrests, and continued threat of arrest pursuant to the General
7 Court Order, [including the latest iteration of that order \(Exhibit 5\)](#) that forbids
8 protests on Court ground, has caused, and continues to cause, a chill to Plaintiffs
9 and other protesters wish to raise their voices in protest or otherwise engage in free
10 speech outside the courthouse on issues specific to the justice system and its
11 application to people of color.

12 38. To Plaintiffs knowledge, since July 31, 2020, no other protests or
13 picketing, including Black Lives Matters protests, involving criticisms of the
14 criminal justice system, have occurred at the courthouse, even though the reasons
15 for the protests have continued and they and other erstwhile protestors have wanted
16 to continue their protests and make their concerns known. This is a direct result of
17 Sheriff department personnel threats to arrests persons who do not heed the
18 SCCCSB's General Court Order that prohibits all protests.

19 39. In order to make protesting illegal on government grounds, both Penal
20 Code 602.1(b) (trespass by interfering with lawful business of a public agency) and
21 Penal Code 169 (protest on Court house grounds) require an additional element,
22 such as the interference with the public business, for a violation to occur. [The](#)
23 [General Court Order at issue does not. It prohibits all protests without regard to](#)
24 [intent or wrongful act.](#)

25 40. On July 31, 2020, the Superior Court administration, SCCCSB, was
26 constrained to act within the laws of the State of California and acted ultra vires or
27 otherwise beyond its power to issue a General Order prohibiting protests that were
28 not otherwise prohibited or made unlawful by state law. The General Order was

1 made enforceable, or has been wrongfully interpreted as applying, against the
2 general public coming onto court grounds. Prohibiting plaintiffs from peacefully
3 and lawfully protesting on San Bernardino Court grounds, and threatening arrests
4 without the benefit of probable cause, is violative of Plaintiff's constitutional rights
5 pursuant top California Constitution Art I § 7 SEC. 7 and Fifth Amendment right to
6 Due Process as applied through the 14th Amendment's to the U.S. constitution and
7 these provisions Constitutional promise that persons are to be free from the State
8 depriving them of life, liberty, or property without due process of law, and Article I
9 § 7 of the California Constitution guarantee of due process; and the California
10 Constitution and US Constitution right to Free Speech and Free Assembly.

11 41. Moreover, such acts by the Respondents in enacting the General Order
12 to prohibit free speech and lawful assembly, and then seeking to use the general
13 Order to stifle free speech and prevent the lawful assembly violate the Tom Bane
14 Civil Rights Act, Civ Code § 52.1. Action for injunctive and other equitable relief to
15 protect exercise or enjoyment of legal rights are authorized.

16 42. On July 31, 2020, Plaintiffs did not "interfere with, obstruct, or impede
17 the administration of justice nor did they have the intent to influence any judge,
18 juror, witness, or officer of the court in the discharge of his duty" and no reasonable
19 law enforcement officer would have thought that Plaintiffs had.

20 43. On July 31, 2020, Plaintiffs did not block Courthouse entrances.

21 44. On July 31, 2020, Plaintiffs did not threaten any person entering or
22 exiting the courthouse.

23 45. On July 31, 2020, Plaintiffs did not act, interfere with, obstruct, or
24 impede, with the intent to "influence any judge, juror, witness, or officer of the court
25 in the discharge of his duty"

26 46. As such, on July 31, 2020, under the watchful eye of SCCCSB
27 administrators, and the brut force of the COUNTY and its SBSD personnel and
28 leadership, and without the benefit of probable cause to arrest Plaintiffs, sought to

1 prevent the excersize of basic freedoms and the due process of law.

2 47. To date, the San Bernardino County district attorney has not sought to
3 prosecute Plaintiff Lorenz or Plaintiff Popat for any violations of law stemming
4 from the protest event, arrest or citation. It is now past the statute of limitations for a
5 matter to be filed.

6 48. Plaintiffs were intentionally and negligently falsely imprisoned, and
7 falsely arrested by Defendants on July 31, 2020.

8 49. Moreover, Plaintiffs are informed and believe that no other arrests (or
9 threats of arrests) for protesting on court grounds have occurred to any other group,
10 or political affiliate, save for those who attended the Black Lives Matter. During
11 this same year, after the arrests in this matter, other protestors, but who support the
12 judicial system or prosecutors, have been allowed to demonstrate in the same area,
13 at the same courthouse, during the same approximate time.

14 50. Moreover, before the arrests of Plaintiffs the San Bernardino Court
15 system administrators (SCCCSB) specifically determined that BLM protests, and
16 protestors who support BLM, insisted that the general Order be enforeced, and
17 BLM protests and those participating in protests would not be allowed on court
18 grounds, under pain of arrest. .

19 51. As such, Plaintiffs are informed and believe that the impetus for the
20 decisions to stop the protest and the taking of illegal actions against Plaintiffs was
21 not just to stop the lawful protest, but was based upon the cause for which Plaintiffs
22 stood and the color of the skin of those for whom they protested. (Actions by State
23 actors are in violation of the Bane Act.

24 52. Defendants interfered with Plaintiffs constitutional rights, unlawfully
25 cited Plaintiffs, unlawfully arrested Plaintiffs, and unlawfully detained Plaintiffs and
26 unlawfully threatened arrests for engaging in protected activity.

27 53. Defendants used excessive force amounting to assault and battery of
28 unlawful touching to take Plaintiffs into custody.

1 54. The defendants did not have a reasonable suspicion that Plaintiffs were
2 involved in, or about to commit a crime. Defendants wrongfully detained Plaintiffs
3 against their will, and then, without probable cause, falsely arrested Plaintiffs,
4 amounting to false arrest and false imprisonment, all in violation of Civ Code 52.1,
5 et seq.

6 55. Plaintiffs were transported to San Bernardino Central Detention Center
7 and placed in a holding cell for multiple hours before being released from custody.

8 56. As such, Defendants, and DOES 1-50, and each of them, acted upon
9 Plaintiffs without legal justification.

10 57. Any reasonable officer knowing the same facts as existed on July 31,
11 2020 would not have been suspicious that Plaintiffs, were, had been, or were about
12 to be involved in activity related to a crime.

13 58. Plaintiffs are informed and believes that the County of San Bernardino,
14 its Sheriff's Department and the named defendants and DOES 1-51 were, at the
15 very least, negligent in their treatment of Plaintiffs and, at worst, knowingly and
16 intentionally malicious.

17 59. The San Bernardino County and its Sheriff's Department has a duty to
18 stop this type of conduct, to watch that it does not occur, and to, at least, train these
19 officers to assess the situation and react professionally without the need for
20 excessive force.

21 60. Plaintiff is informed and believes and thereon alleges that, at all times
22 herein mentioned, defendants SCCCSB and the County of San Bernardino, San
23 Bernardino Sheriff's Department, and DOE 51 maintained, enforced, tolerated,
24 ratified, permitted, acquiesced in, and/or applied, among others, the following
25 policies, practices and customs with deliberate indifference, and in conscious and
26 reckless disregard to the safety, security and constitutional and statutory rights of
27 Baxter, including the right to be free from excessive force under the Fourth
28 Amendment.

61. As complained of herein above, none of the defendants to this action had a warrant for either Plaintiffs arrest, nor probable cause to believe that plaintiffs had committed a crime, nor reasonable suspicion of criminality afoot by the plaintiffs, or any suspicion that the plaintiffs was a danger to anyone or anything.

FIRST CAUSE OF ACTION

DECLARATORY RELIEF

and Relief pursuant to CCP 1060 and CC 52.1 and

[Against the **Superior Court of California for San Bernardino County, San Bernardino County**, a municipality; **San Bernardino County Sheriff's Department**, a municipality]

62. Plaintiffs hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61, inclusive, above, as if set forth in full herein.

63. **Superior Court of California for San Bernardino County, San Bernardino County, (SCCCSB) and the San Bernardino County (County) and its Sheriff's Department, (SBSD)** operate or provide services at the Superior Court's in the County of San Bernardino.

64. The **Superior Court of California for San Bernardino County, San Bernardino County** has issued a General Court Order, that remains enforceable, and has sought, and continues to seek or can seek, to enforce, that blanketly prohibits protests on Court grounds. It states:

Text from General Order of the Presiding Judge in Re: Court Access signed
January 1, 2020.

I. DEFINITIONS

A. The following definitions apply for the purposes of this General Order:

1. "Prohibited Activity" shall mean any and all of the acts of demonstrating, picketing, parading, distributing literature or

1 other materials, soliciting sales or donations, engaging in
2 commercial activity and engaging in oral or demonstrative
3 protest, education or counseling.

4 2. "Walkway" shall mean (a) any corridor, sidewalk or other path of
5 pedestrian movement directly from the edge of the public
6 sidewalk nearest an entrance to any building containing a
7 courtroom; (b) an corridor, sidewalk or other path of pedestrian
8 movement leading directly from parking lot within the curtilage
9 to an entrance to any building containing a courtroom; and (c)
10 any corridor or passageway within a multi-purpose, commercial
11 or private building that leads directly to the part of the building
12 containing a courtroom.

13 3. "Curtilage" shall mean any area between any building
14 containing a courtroom and nearest edge of public sidewalk
15 surrounding the building. It shall not include the area adjacent to
16 that portion of a multi-purpose, commercial or private building
17 that does not contain a courtroom.

18 4. "Courthouse" shall mean any building containing, at least, one
19 (1) courtroom. It shall also mean that portion of a multi-purpose
20 commercial or private building that contains, at least, one (1)
21 courtroom.

22 [page.2:11– 3:7]

23 II. PROHIBITIONS

24 [only relevant portions of the General Order are included herein]

25 B. No person shall engage in any prohibited activity within the curtilage
26 of a courthouse.

27 D. No person shall approach another person waiting in line to enter a
28 courthouse, within eight (8) feet of the other person, for the purpose of

engaging in a prohibited activity unless the other person consents.

F. No person shall use amplification equipment to engage in any prohibited activity in a manner that harasses or interferes with any person leaving or entering a courthouse or with any person waiting in line to enter a courthouse.

[p. 3:8-11] (EXHIBIT 1 & 4)

65. Section “F” above has been interpreted and enforced, ostensibly with the approval and knowledge of the SCCCSB to mean that NO amplification equipment can be used on courthouse grounds. The Courthouse is sound insulated and amplified sounds were not heard, and cannot be heard, in any courtroom in the building. No window that can be opened faces the court yard areas of the Superior Court at issue, and Plaintiff is informed and believes that no windows that can be opened face courtyards at any of the SCCCSB courthouses.

66. The San Bernardino Superior Court General Order (Ex 1 and 4) relating to political speech is not content neutral. It allows statues that deliver political messages regarding the sacrifice of law enforcement officers to be prominently displayed in open public areas of the Court house, but then prohibits expressions that seek to call attention to the plight of black American men. This is a discrimination based on the message. As the General Order is written, there is no venue at the court house to raise the concern about unjustified police shootings, or provide information about the number and identifies of those individuals, let alone black Americans, who have been unjustifiably shot to death by law enforcement officers in San Bernardino County. This is not to say that the two messages are antithetical to each other – they are not. However, it is fair to say, that protests and demonstrations held at or in front of government facilities are generally critical of government acts. It is also fair to say that a statue that communicates the sacrifice of law enforcement officers is meant to support these government actors and the

1 institution. In this case, protestors were critical of an officer who claims that his life
2 was endangered when a black man “kinda wanted to fight” and was justified in
3 shooting the back American. The officer is suggesting that he need not want to be
4 statistic on the wall of the statues memoriam justified the shooting. On the other
5 hand, few viscerally understood, before George Floyd, how cheaply the lives of
6 black men are valued when they are taken into custody by some in law enforcement.
7 The San Bernardino Superior Court directly supports public expression for officer’s
8 harmed in the line of duty and allows their grounds to be used for that expression,
9 but prohibits, in this matter, otherwise lawful political expressions on their grounds
10 that express views critical of unjustified police shootings and the impact on black
11 America from disparity endemic in the justice system.

12 67. Legal Challenge: Even if the General Order at issue was content
13 neutral, and even if the Plaintiffs, Kelly Lorenz and Alykhan Popat, do not have a
14 U.S. Constitutional right to protest on court grounds, the Superior Court of
15 California does not have the legal ability to prohibit Plaintiffs from protesting
16 unless Plaintiffs conduct violates California law. It did not. It does not.

17 68. Factual Challenge: SCCCSB nor the SBSD pick and choose whoi they
18 will allow to protest in court grounds. The choice of who is allowed to picket on
19 court grounds is not content neutral. The Court seeks to apply, and the Sheriff seeks
20 to enforce (through various means, including selective enforcement of other laws),
21 prohibitions against protests by selectively choosing what groups may protest on its
22 court grounds. As an example, if a persons who protest with the group displeases
23 the SCCCBS or SBSD, including the Respondents objection to the content of the
24 speech used by an individual [s], then the Respondents will deny access by all
25 individuals of a group because of their association with that group. Thus,
26 membership in disfavored groups in a determining factor in who is allowed to
27 protest on San Bernardino Court grounds.

28 69. The provision is too broad and may not blanketly prohibit all protests,

1 including those that do not violate any state law or regulation.

2 70. Seeks declaratory relief to determine that the Superior Court of
3 California for San Bernardino County's General Court Order, stated above, cannot
4 not be imposed to blanketly prohibit "any and all of the acts of demonstrating,
5 picketing, parading, distributing literature or other materials, soliciting sales or
6 donations, engaging in commercial activity and engaging in oral or demonstrative
7 protest, education or counseling" and/or prohibit protests and demonstration or the
8 use of voice magnification equipment more than that currently proscribed by
9 California State law.

10 71. Let such an Declaratory judgment be decided and issued, and notice be
11 directed at the Superior Court of California for San Bernardino County *and*
12 Defendants San Bernardino County and the San Bernardino County Sheriff's
13 Department and its personnel; and give notice that public monies should not be used
14 in furtherance of the enforcement of the General Order. (Exhibits 1 & 5)

15 **SECOND CAUSE OF ACTION**

16 **THE ACTION BY THE SAN BERNARDINO COUNTY AND ITS SHERIFF**
17 **DEPARTMENT, AND THE SCCCBC, CONSTITUTES AN ILLEGAL**
18 **EXPENDITURE OF FUNDS UNDER CODE OF CIVIL PROCEDURE §**
19 **526(a).**

20 **INJUNCTIVE RELIEF**

21 [Against the **Superior Court of California for San Bernardino County,**
22 **County of San Bernardino**, a municipality]

23 CA Constitution art I § 7 SEC. 7 and CC Sec 52.1

24 72. Plaintiffs hereby re-alleges and incorporates by reference the
25 allegations set forth in paragraphs 1 through 72, inclusive, above, as if set forth in
26 full herein.

27 73. As part of that expenditure for the administration of the court buildings
28 and its security that is provided by the Sheriff's department, taxpayers pay for

1 special actions against protestors that are not supported by probable cause; and the
2 General Orders prohibiting all protests, including those that do not violate state
3 law, are ultra vires and outside the authority of the SCCCSB administration to enact.
4 Moreover, the SCCCSB did not follow procedures to enact local rules, and have
5 failed to submit the General Order at issue for approval to the Judicial Council. As
6 such the provision is void.

7 74. Having been directly injured by the General Order and its application
8 and enforcement against them, Petitioners Popat and Lorenz, are also taxpayers in
9 this County, and seek declaratory relief to interpret and decide whether the General
10 Order is lawful, lawful as applied to the public, and enforceable, and if so how, and
11 to determine whether public funds for the General Orders' application and
12 enforcement are unlawful. (Exhibit 1 and 5)

13 75. Having been directly injured by the General Order and its application and
14 enforcement against them and therefore seek to enjoin the use of the General Order
15 against them and those similarly situated, Petitioners Popat and Lorenz, are also
16 taxpayers in this County, and seek to restrain or prevent the illegal expenditure of
17 public funds in enforcing the General Order (Exhibit 1 and 5) when those orders cannot
18 be enforced against the general public coming onto the Court grounds. Manning
19 Bernardino County Sheriff's **Department**, (SBSD) operate or provide services at the
20 Superior Court's in the County of San Bernardino. As part of that expenditure for the
21 administration of the court buildings is the security that is provided by the Sheriff's
22 department, and paid for by the SCCCSB out of public funds.

23 76. The **Superior Court of California for San Bernardino County**,
24 has issued a General Court Order, that it and the **County of San Bernardino**
25 enforced and continues to enforce, and holds out that order as a valid prohibition
26 against protests on Court grounds that are otherwise lawful. It states:
27 Text from General Order of the Presiding Judge in Re: Court Access signed January
28 1, 2020.

1 I. DEFINITIONS

2 A. The following definitions apply for the purposes of this General Order:

- 3 1. "Prohibited Activity" shall mean any and all of the acts of
4 demonstrating, picketing, parading, distributing literature or
5 other materials, soliciting sales or donations, engaging in
6 commercial activity and engaging in oral or demonstrative
7 protest, education or counseling.
- 8 2. "Walkway" shall mean (a) any corridor, sidewalk or other path of
9 pedestrian movement directly from the edge of the public
10 sidewalk nearest an entrance to any building containing a
11 courtroom; (b) an corridor, sidewalk or other path of pedestrian
12 movement leading directly from parking lot within the curtilage
13 to an entrance to any building containing a courtroom; and (c)
14 any corridor or passageway within a multi-purpose, commercial
15 or private building that leads directly to the part of the building
16 containing a courtroom.
- 17 3. "Curtilage" shall mean any area between any building
18 containing a courtroom and nearest edge of public sidewalk
19 surrounding the building. It shall not include the area adjacent to
20 that portion of a multi-purpose, commercial or private building
21 that does not contain a courtroom.
- 22 4. "Courthouse" shall mean any building containing, at least, one
23 (1) courtroom. It shall also mean that portion of a multi-purpose
24 commercial or private building that contains, at least, one (1)
25 courtroom.

26 [page.2:11– 3:7]

27 II. PROHIBITIONS

28 [only relevant portions of the General Order are included herein]

1 B. No person shall engage in any prohibited activity within the curtilage
2 of a courthouse.

3 D. No person shall approach another person waiting in line to enter a
4 courthouse, within eight (8) feet of the other person, for the purpose of
5 engaging in a prohibited activity unless the other person consents.

6 F. No person shall use amplification equipment to engage in any
7 prohibited activity in a manner that harasses or interferes with any
8 person leaving or entering a courthouse or with any person waiting in
9 line to enter a courthouse.

10 [p. 3:8-11]

11 77. Defendants San Bernardino County and the San Bernardino County
12 Sheriff's Department have been charged with enforcing the General Court order as
13 described herein at San Bernardino Court facilities.

14 78. The Plaintiff seeks injunctive relief to prohibit the Superior Court of
15 California for San Bernardino County **and** Defendants San Bernardino County and
16 its Sheriff's Department from enforcing, or threatening to enforce, the General
17 Court Order as written which blanketly prohibit "any and all of the acts of
18 demonstrating, picketing, parading, distributing literature or other materials,
19 soliciting sales or donations, engaging in commercial activity and engaging in oral
20 or demonstrative protest, education or counseling" and/or prohibits protests and
21 demonstration or the use of voice magnification equipment more than that currently
22 proscribed by California State law and its Constitution.

23 79. Plaintiff basis this request on the following: 1. The General Order
24 described, violates State and Federal Constitutional substantive due process and
25 equal protection rights belonging to the public. 2. Violates the separation of
26 powers, in that a superior Court has no jurisdiction or legislative power to
27 circumscribe the rights of the public beyond those restrictions already imposed by
28 legislature or State Constitution, and thus the order is not lawful; 3. If the General

1 Order is sought to be enforced as judicial order, that the order was not entered in
2 conformance with accepted judicial powers or process. 4. Only a legislature or the
3 State or Federal Constitution can affect the peoples rights to demonstrate, picket,
4 parade, distribute literature or other materials, soliciting sales or donations,
5 engaging in commercial activity and engaging in oral or demonstrative protest,
6 education or counseling ” unless that right has been specifically provided to the
7 court by the legislature, or the court gains judicial power over the controversy; 5.
8 and finally, any such violation of said order is legally infirmed and cannot form the
9 basis for a charge of a violation of a court order such as Penal Code 166.4 since
10 General Court order, in particular this general court order, are not lawful court
11 orders as a matter of law.

12 80. Legal Challenge: Even if the General Order at issue was content
13 neutral, and even if the Plaintiffs, Kelly Lorenz and Alykhan Popat, do not have a
14 U.S. Constitutional right to protest on court grounds, the Superior Court of
15 California does not have the legal ability to prohibit Plaintiffs from protesting
16 unless Plaintiffs conduct violates California law. It did not. It does not.

17 81. Factual Challenge: SCCCSB nor the SBSB pick and choose who they
18 will allow to protest in court grounds. The choice of who is allowed to picket on
19 court grounds is not content neutral. The Court seeks to apply, and the Sheriff seeks
20 to enforce (through various means, including selective enforcement of other laws),
21 prohibitions against protests by selectively choosing what groups may protest on its
22 court grounds. As an example, if a persons who protest with the group displeases
23 the SCCCBS or SBSB, including the Respondents objection to the content of the
24 speech used by an individual [s], then the Respondents will deny access by all
25 individuals of a group because of their association with that group. Thus,
26 membership in disfavored groups in a determining factor in who is allowed to
27 protest on San Bernardino Court grounds.

28 82. Let such an injunction issue, and be directed at the Superior Court of

1 California for San Bernardino County *withdraw its General Order to comport only*
2 *with the powers to prohibit conduct that it is authorized to wield, and not seek to*
3 *enforce the General Order at issue; and* that the Defendant San Bernardino County
4 and the San Bernardino County Sheriff's Department and its personnel not seek to
5 enforce the Court Order as presently constituted.

6 **PRAYER**

7 **WHEREFORE**, Plaintiffs requests relief as follows, and according to proof,
8 against each defendant:

9 **CASE OF ACTION I**

10 Pursuant to Code of Civil Procedure sections 1060 and 52.1, to interpret the
11 General Order, determine the rights of the parties, assess the lawfulness and the
12 enforceability of the General Order (Ex 1 & 5) against the public who are not
13 litigants in any matter in which the Superior Court has jurisdiction. Specifically
14 Plaintiffs' seeks a declaration that they and the public can use court grounds for
15 peaceful protests, including the use of amplification equipment, so long as that
16 conduct does not violate State law.

17 Determine that any expenditure of monies to apply or enforce the General
18 Orders at issue are not a lawful use of taxpayer money.

19 Attorneys fees and costs pursuant to California's Private Attorney General's
20 Statute, CCP 1021.5 and taxpayer lawsuit CCP 526a.

21 **CASE OF ACTION II**

22 Injunctive relief: Pursuant to CC 52.1 and Code of Civil Procedure sections
23 1060 to end the practice and expenditure of public monies to enforce, and end the
24 enforcement of the General Order (Ex 1 & 5) and all like General Orders in the
25 future that seek to prohibit Plaintiffs' and the public's use of court grounds for
26 peaceful protests, including the use of amplification equipment, so long as that
27 conduct does not violate State law.

28 Attorneys fees and costs pursuant to California's Private Attorney General's.

1 Statute CCP 1021.5 and taxpayer lawsuit CCP 526a. And pursuant to fees clause of
2 CC 52.1

3
4 Dated: February 3, 2023 SCHLUETER LAW FIRM, PC

5
6 // s Peter Schlueter
7 By: Peter B. Schlueter, Attorney for
8 Plaintiffs Kelly Lorenz and Alykhan Popat
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1 **PROOF OF SERVICE**

2 **SUPERIOR COURT OF CALIFORNIA – COUNTY OF RIVERSIDE**

3 At the time of this service I was over 18 years of age and I was not a party to
4 this action, *Kelly Lorenz, Alykhan Papat v. Superior Court of California, County of*
5 *San Bernardino et al.*, case no.: **CIVSB2211434**. My business address is 454 N
6 Arrowhead Ave, 2nd Fl, San Bernardino, CA 92401. On the date specified below, I
7 served the following documents ("Documents"): **SECOND AMENDED: Petition for**
8 **Declaratory Relief and Injunctive Relief** (re-filed with the Court directed correction
9 on the birdcage)

10 The Documents were served on the following persons ("Persons"):

11 **Attorneys for Defendants: Superior Court of California, County of San**

12 **Bernardino**
JONES DAY

13 Robert A. Naeve

Email: rnaeve@jonesday.com

14 Cary D. Sullivan

Email: carysullivan@jonesday.com

15 Nathaniel P. Garrett

Email: ngarrett@jonesday.com

3161 Michelson Dr, Ste 800
Irvine, CA 92612

16 **Attorneys for Defendants: County of San Bernardino**

17 **OFFICE OF COUNTY COUNSEL**

18 Laura L. Crane

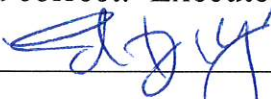
Email: laura.crane@cc.sbcounty.gov:

385 North Arrowhead Ave., 4th Floor
San Bernardino, CA 92415

19
20 The Documents were delivered by:

21 (X) **Email**. I emailed copy of the Documents to the Persons at the email addresses
22 identified above. I did not receive any indication that the email transmission was
23 unsuccessful.

24 I declare under penalty of perjury under the laws of the United States of
25 America that the foregoing is true and correct. Executed on February 7, 2023, in San
26 Bernardino, California.



27 Catalina Ramirez H.
28