

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WENDY HOPE HECKMAN

Plaintiff(s),

v.

THE CITY OF RANCHO MIRAGE, et  
al.

Defendant(s).

CASE NO:

5:22-cv-02031-JGB-SHK

STANDING ORDER

**READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE  
AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

- Plaintiff(s) shall immediately serve this Order on all parties along with the Summons and Complaint.
- If this case came to the Court by noticed removal, the removing Defendant(s) shall serve this Order on all other parties.

This action has been assigned to the calendar of Judge Jesus G. Bernal.

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1 The Court and litigants bear joint responsibility for the progress of  
2 litigation in the Federal Courts. To secure the just, speedy, and inexpensive  
3 determination of every action, (Fed. R. Civ. P. 1), all counsel are hereby  
4 ordered to become familiar with the Federal Rules of Civil Procedure and the  
5 Local Rules of the Central District of California.\*

6  
7 The Court further orders as follows:

8  
9 **1. Service of the Complaint.** Plaintiff shall serve the Complaint  
10 promptly in accordance with Fed. R. Civ. P. 4 and file the proofs of service  
11 pursuant to L.R. 5–3.1.

12  
13 **2. Removed Actions.** Any answers filed in state court must be  
14 re–filed in this Court (separately) as a supplement to the petition. Any pending  
15 motions must be re–noticed in accordance with L.R. 6–1.

16  
17 **3. Assignment to a Magistrate Judge.** Under 28 U.S.C. § 636,  
18 the parties may consent to have a Magistrate Judge preside over all proceedings.  
19 The Magistrate Judges who accept those designations are identified on the  
20 Central District's website, which also contains the consent form.

21  
22 **4. Electronic Filing.** As of January 1, 2008, the United States  
23 District Court for the Central District of California implemented mandatory  
24 electronic filing ("e–filing") of documents in all new and pending civil cases.  
25 Information about the Court's Electronic Case Filing system is available on  
26 the Court's website at [www.cacd.uscourts.gov/cmecf](http://www.cacd.uscourts.gov/cmecf).

27 All documents required to be "e–filed" in this matter can be found in  
28 General Order No. 10–07 and L.R. 5–4. The Court specifically directs litigants

1 to L.R. 5-4.3.1, requiring that all electronically filed documents be created by  
2 publishing the document to PDF, and not by scanning paper documents.  
3

4 **5. Mandatory Chambers Copies.** Counsel shall provide one  
5 conformed chambers copy of **ONLY** the following filed documents.

6 **Civil matters:** Motions and related documents (opposition, replies,  
7 exhibits); ex parte applications and related documents oppositions and  
8 exhibits); and Joint Rule 26(f) reports;  
9

10 **Criminal matters:** All motions and related documents and exhibits;  
11 plea agreements(s); and sentencing memorandum and objections to the  
12 pre-sentence reports.  
13

14 Chambers copies shall be delivered to the "Courtesy Box," located  
15 outside of Courtroom 1 on the 2nd floor at the United States District Court,  
16 3470 Twelfth Street, Riverside, California 92501, **no later than 5:00 p.m. on**  
17 **the day following the "e-filing."** All chambers copies shall comply fully with  
18 the document formatting requirements of L.R. 11-3, including the "backing"  
19 and "tabbing" requirements of Local Rules 11-3.5 and 11-5.3, respectively.  
20 If the filing party and their counsel fail to deliver a mandatory chambers copy  
21 in full compliance with this Order and L.R. 11-3, the Court may, on its own  
22 motion, reschedule any related hearing and impose sanctions.  
23

24 **6. Proposed Orders.** Each party filing or opposing a motion or  
25 seeking the determination of any matter shall serve and electronically lodge a  
26 proposed order which sets forth the relief or action sought and a brief statement  
27 of the rationale for the decision with appropriate citations.  
28

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1           **7. Presence of Lead Counsel.** Lead trial counsel for each party  
2 must attend any scheduling and pretrial conferences set by the Court. Failure  
3 of lead trial counsel to appear for those proceedings is a basis for sanctions.  
4

5           **8. Discovery.** All discovery matters have been referred to a United  
6 States Magistrate Judge. The Magistrate Judge's initials follow the District Judge's  
7 initials in the case number assigned to the matter. The words "DISCOVERY  
8 MATTER" shall appear in the caption of all documents relating to discovery to  
9 insure proper routing. Counsel shall deliver mandatory chambers copies of  
10 discovery-related papers to the Magistrate Judge assigned to the case rather  
11 than to this Court.  
12

13           **9. Motions – General Requirements.**

14           a.     Time for Hearing Motions. Motions shall be filed and set  
15 for hearing in accordance with L.R. 6–1. Motions will be heard on Mondays  
16 commencing at 9:00 a.m. Any motion noticed for a holiday shall automatically  
17 be set to the next Monday without further notice to the parties.

18           b.     Length and Format of Motions. Memoranda of Points and  
19 Authorities in support of or in opposition to motions shall not exceed 25 pages.  
20 Replies shall not exceed 12 pages. Only in rare instances, and for good cause  
21 shown, will the Court grant an application to extend these page limitations. When  
22 citing to legal databases, wherever possible cite to Westlaw rather than Lexis.

23           If documentary evidence in support of or in opposition to a motion exceeds  
24 50 pages, the evidence must be separately bound and tabbed and include an index.  
25 If such evidence exceeds 200 pages, the documents shall be placed in a binder,  
26 with an index and with each item of evidence separated by a tab divider.

27           c.     Withdrawal or Non–Opposition of Motions. **In the**  
28 **event that the parties resolve a pending motion, *they must notify the Court***

1 **approximately one week before the hearing date.** Sanctions may issue for  
2 failure to comply with this requirement, or the broader requirement in L.R. 7–16  
3 that any party who intends to withdraw a motion, not oppose a motion, or seek  
4 a continuance of the hearing date for a motion, must notify the court by noon  
5 on the Tuesday preceding the hearing date.  
6

7 **10. Motions to Amend.** In addition to the requirements of L.R. 15,  
8 all motions to amend pleadings shall (1) state the effect of the amendment and  
9 (2) identify the page(s), line number(s), and wording of any proposed change  
10 or addition of material.  
11

12 **11. Class Actions.** Notwithstanding Local Rule 23–3, the deadline  
13 for the filing of a motion for class certification will be set during the Scheduling  
14 Conference and/or in a Scheduling Order. **NO REQUEST FOR RELIEF FROM**  
15 **LOCAL RULE 23–3 IS NECESSARY.**  
16

17 **12. Motions for Summary Judgment or Partial Summary Judgment.**  
18 No party may file more than one motion pursuant to Fed. R. Civ. P. 56 regardless  
19 of whether such motion is denominated as a motion for summary judgment or  
20 summary adjudication. Parties offering evidence in support of, or in opposition  
21 to, a Rule 56 motion must cite to specific page and line numbers in depositions  
22 and paragraph numbers in affidavits. Furthermore, such evidence must be  
23 authenticated properly. The Court directs the parties to become familiar with  
24 Orr v. Bank of America, NT & SA, 285 F.3d 764 (9th Cir. 2002).

25 a. Statements of Undisputed Facts and Genuine Disputes.

26 The moving party's brief shall be accompanied by a Statement of Undisputed  
27 Facts ("SUF"). The SUF shall be presented in a table format and include the  
28 following columns:

- i. The first column shall contain the number of the fact alleged to be undisputed.
- ii. The second column shall contain a plain statement of the fact. **Facts shall not be compound.** If, for instance, the required response is that the fact is disputed in part, the fact is compound. Further, neither legal arguments nor conclusions constitute facts.
- iii. The third column shall contain a citation to admissible evidence the party believes supports the proffered fact.

For example:

Pl.'s SUF No.	Fact	Supporting Evidence
1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶ 2.
2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Decl. of Plaintiff's Expert ¶ 14.
. . .	. . .	. . .

The party opposing the summary judgment motion shall include with its opposition a Statement of Genuine Disputes of Material Fact that includes the moving party's table; but the opposing party shall add a fourth column to the moving party's table identifying those facts that are in dispute, briefly explaining the dispute, and citing the evidence supporting the dispute. The opposing party shall not set forth legal or evidentiary objections in the statement of genuine disputes of material fact. For example:

Pl.'s SUF No.	Fact	Supporting Evidence	Def.'s Response
1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶ 2.	Undisputed.
2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.	Disputed. The light was red when Plaintiff traveled through the intersection. (Decl. of Defendant ¶ 6.)
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Dec. of Plaintiff's Expert ¶ 14.	Disputed. Plaintiff was driving 52 miles per hour when she went through the intersection. (Decl. of Defendant's Expert ¶ 9.)
.	.	.	.

If a party fails to dispute a fact properly by offering evidence that does not contradict the proffered fact, the Court will deem the fact undisputed for purposes of the motion. See Fed. R. Civ. P. 56(e)(2), L.R. 56–3.

If the party opposing the summary judgment motion wishes to include its own set of undisputed facts, it may include them in a second table at the end of its statement of genuine disputes of material fact. The opposing party's undisputed facts shall be set forth in the same manner as the moving party's SUF. For example:

Def.'s SUF No.	Fact	Supporting Evidence
1.	The tires on Plaintiff's car had only 1 millimeter of tread remaining at the time of the accident.	Decl. of Mechanic ¶ 5.
.	.	.

If either party fails to provide a pincite to the supporting evidence, the Court will deem the proffered fact (or dispute) unsupported. See generally

Christian Legal Soc. v. Wu, 626 F.3d 483, 488 (9th Cir. 2010) ("Judges are not like pigs, hunting for truffles buried in briefs." (quoting Greenwood v. FAA, 28 F.3d 971, 977 (9th Cir. 1994) (quoting United States v. Dunkel, 927 F.2d 955, 956 (7th Cir. 1991) (per curiam)) (alteration omitted)))).

b. Objections to Evidence. Parties shall file any legal objections to the other party's proffered evidence under separate cover. The evidentiary objections should be presented in a three-column format and include the following columns:

- i. The first column shall contain the number of the the fact objected to, using the numbering submitted in the moving party's SUF if applicable.
- ii. The second column shall identify the item objected to, including its page and line number if applicable.
- iii. The third column shall set forth a concise objection (e.g., hearsay, lacks foundation, etc.) with a citation to the Federal Rules of Evidence or, where applicable, a case citation.

For example:

Fact No.	Fact	Objection
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection. (Decl. of Plaintiff ¶ 7; Decl. of Plaintiff's Expert ¶ 14)	Irrelevant. F.R.E. 402.
.	.	.

**13. *Ex Parte* Applications.** *Ex parte* applications are considered on the papers and are not usually set for hearing. Counsel are advised that this Court allows *ex parte* applications solely for extraordinary relief. Sanctions may



1 be imposed for misuse of *ex parte* applications. See In re Intermagnetics Am.,  
2 Inc., 101 B.R. 191 (Bankr. C.D. Cal. 1989). Counsel also should become familiar  
3 with Mission Power Engineering Co. v. Continental Casualty Co., 883 F. Supp.  
4 488 (C.D. Cal. 1995), regarding *ex parte* applications.

5 Counsel's attention is directed to L.R. 7–19. The moving party's declaration  
6 in support of an *ex parte* application shall show compliance with L.R. 7–19 and  
7 this Order and shall include a statement of opposing counsel's position. Failure  
8 to do so ensures the application will be DENIED. If counsel does not intend to  
9 oppose an *ex parte* application, counsel must inform the Courtroom Deputy  
10 Clerk, (951) 328–2254. As with all motion papers, counsel must deliver a  
11 conformed courtesy copy of the papers to the "Courtesy Box", located outside  
12 of Courtroom 1 on the 2nd floor at United States District Court, 3470 Twelfth  
13 Street, Riverside, California 92501. Counsel will be notified by the Courtroom  
14 Deputy Clerk of the Court's ruling or of a hearing time and date should the  
15 Court determine that a hearing is necessary.

16  
17 **14. Stipulations.** Stipulations extending scheduling dates set by this  
18 Court are not effective unless approved by the Court. Continuances will be  
19 granted only upon a showing of good cause.

20  
21 **15. Communications with Chambers.** Unless requested to do so,  
22 counsel shall not attempt to contact the Court or its staff by telephone or by  
23 any other *ex parte* means. Counsel are directed to review the Central District's  
24 at <http://www.cacd.uscourts.gov> for the Local Rules, filing procedures, judges'  
25 procedures and schedules, calendars, forms, and Pacer access. Counsel may  
26 contact the Courtroom Deputy Clerk, Maynor Galvez, by telephone at (951) 328–  
27 2254 or by email at [maynor\\_galvez@cacd.uscourts.gov](mailto:maynor_galvez@cacd.uscourts.gov) only in the event that  
28 counsel cannot find the desired information through all available resources.

1       **16. Telephonic Appearances.** Telephonic appearances will only be  
2 allowed upon good cause. To request a telephonic appearance counsel must  
3 file a request with a proposed order one week before the scheduling conference.

4       **IT IS SO ORDERED.**

5  
6 Dated: November 22, 2022



7 Jesus G. Bernal  
8 United States District Judge

9       \* Copies of the Local Rules are available on our website at  
10 "http://www.cacd.uscourts.gov" or they may be purchased from one of the  
following:

11 Los Angeles Daily Journal  
12 915 East 1st Street  
Los Angeles, California 90012

13 West Publishing Company  
14 610 Opperman Drive  
Post Office Box 64526  
15 St. Paul, Minnesota 55164-0526

16 Metropolitan News  
17 210 South Spring Street  
Los Angeles, California 90012

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
Central District of California

Wendy Hope Heckmann

*Plaintiff(s)*

v.

The City of Rancho Mirage and Doe 1 through Doe  
20, inclusive

*Defendant(s)*

Civil Action No. 5:22-cv-2031 JGB (SHKx)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

The City of Rancho Mirage  
69825 Highway 111  
Rancho Mirage, CA 92270

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

K. Erik Friess, Esq.; Kelly C. Smith, Esq.  
Allen Matkins Leck Gamble Mallory & Natsis  
2010 Main Street, 8<sup>th</sup> Floor  
Irvine, CA 92614

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 11/17/2022

CLERK OF COURT

*J. Jellman*

Signature of Clerk or Deputy Clerk



1 K. ERIK FRIESS (BAR NO. 149721)  
2 KELLY C. SMITH (BAR NO. 308013)  
3 ALLEN MATKINS LECK GAMBLE  
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11 Attorneys for Plaintiff  
12 WENDY HOPE HECKMANN

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 EASTERN DIVISION

16 WENDY HOPE HECKMANN,

17 Plaintiff,

18 vs.

19 THE CITY OF RANCHO MIRAGE;  
20 and DOE 1 through DOE 20, inclusive,

21 Defendants.

Case No. 5:22-cv-2031

**Complaint for:**

(1) Violation of the Civil Rights Act, 42 U.S.C. § 1983, for Violation of the First Amendment Right to Assemble

(2) Violation of the Civil Rights Act, 42 U.S.C. § 1983, for Violation of the First Amendment Right to Assemble

(3) Violation of the Civil Rights Act, 42 U.S.C. § 1983, for Violation of the First Amendment Right of Association

(4) Violation of the Civil Rights Act, 42 U.S.C. § 1983, for Violation of the Fourteenth Amendment Due Process Clause

(5) Violation of Article 1, § 1 of the California Constitution for Violation of the Right to Privacy

(6) Violation of Article 1, § 3 of the California Constitution for Violation of the Right to Assemble

(7) Declaratory Relief and Related Injunctive Relief

**Demand for Jury Trial**

1 Plaintiff Wendy Hope Heckmann, by and through counsel, hereby brings the  
2 following complaint against defendant City of Rancho Mirage and Does 1 through  
3 20.

4 ***Jurisdiction and Venue***

5 1. Ms. Heckmann has initiated this action against defendant City of  
6 Rancho Mirage because the City's regulations and policies violate the expressive  
7 and associational rights of Ms. Heckmann and others similarly situated.  
8 Accordingly, this action seeks compensatory damages, declaratory relief, injunctive  
9 relief, and attorneys' fees pursuant to the Civil Rights Act, 42 U.S.C. § 1983, the  
10 First and Fourteenth Amendments to the United States Constitution, and the  
11 California Constitution. Jurisdiction lies under 28 U.S.C. §§ 1331, 1343, 2201, and  
12 2202. Further, pursuant to 28 U.S.C. § 1367, this Court has supplemental  
13 jurisdiction over Ms. Heckmann's California state law claims because they form  
14 part of the same case or controversy under Article III of the United States  
15 Constitution as Ms. Heckmann's federal claims.

16 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because  
17 defendant City of Rancho Mirage is in this district, and a substantial part of the  
18 events giving rise to the claim occurred in this district.

19 3. This action is properly assigned to the Eastern Division of this Court as  
20 the events that form the basis of this action occurred in and the ordinance-at-issue  
21 pertains to properties located in Riverside County.

22 ***Introduction***

23 4. Ms. Heckmann incorporates by this reference all above allegations of  
24 the Complaint as if fully set forth herein.

25 5. "Broad prophylactic rules in the area of free expression are suspect.  
26 Precision of regulation must be the touchstone." *Village of Schaumburg v. Citizens*  
27 *for a Better Environment*, 444 U.S. 620, 637 (1980) (citation omitted).

1           6.     In October 2018, the City of Rancho Mirage amended its municipal  
2 code through the adoption of Ordinance No. 1138.

3           7.     Ordinance No. 1138 is a “broad prophylactic rule” that goes far, far  
4 beyond the bounds of reasonable regulation in attempting to control gatherings at  
5 private residences in the City of Rancho Mirage. As drafted, Ordinance No. 1138  
6 prohibits a person from hosting a gathering of 25 or more people at his or her own  
7 home unless the gathering is held by or for a non-profit organization. Therefore,  
8 under the language of Ordinance No. 1138, a person could never host a large  
9 holiday gathering, birthday party, barbeque, bridal shower, baby shower, bible  
10 study, wake, book club, etc. at her home in Rancho Mirage.

11           8.     Upon information and belief, the City has a policy and/or pattern and  
12 practice of allowing people to host private gatherings of 25 or more people in their  
13 homes in Rancho Mirage if they comply with Ordinance No. 1138’s many rules  
14 governing special events. Those rules contain a litany of restrictions and hoops  
15 through which to jump including, but not limited to: a person must seek permission  
16 from the City 30 days in advance of the gathering, pay hundreds, if not thousands, of  
17 dollars in fees to the City, limit the duration of the gathering, and kick all guests out  
18 by 10:00 P.M.

19           9.     After the City enacted Ordinance No. 1138 and started enforcing the  
20 City Policy on Private Owner Events, City personnel showed up at Ms. Heckmann’s  
21 home before she was scheduled to host a private event for friends and family,  
22 demanded that she cancel the event, and threatened to fine her \$10,000 per hour if  
23 she did not comply. Eventually, Ms. Heckmann was permitted to hold the event, but  
24 only after she paid the City an application fee of approximately \$252 and submitted  
25 an application to host an event at her own home. Even though she was permitted to  
26 host the event, the City posted an employee right outside her home during that event  
27 to monitor the event and her guests. The City’s aggressive and intrusive actions  
28 have chilled and dissuaded Ms. Heckmann from hosting gatherings in her own home

1 for friends, family, her church, nonprofit organizations, and political organizations  
2 and candidates.

3 *Parties*

4 10. Ms. Heckmann incorporates by this reference all above allegations of  
5 the Complaint as if fully set forth herein.

6 11. Ms. Heckmann owns a home in Rancho Mirage, California that she  
7 resides in for much of each year.

8 12. Defendant City of Rancho Mirage is a municipal corporation organized  
9 and existing under the laws of the State of California. The City, through its agents,  
10 is responsible for approving, adopting, and enforcing Ordinance No. 1138 and the  
11 City's policy and/or pattern and practice regarding private owner events, which is  
12 the subject of this lawsuit. The City and its agents acted under color of law with  
13 respect to all acts or omissions herein alleged.

14 13. Ms. Heckmann does not know the true names and capacities of the  
15 defendants sued as Does 1 through 20, inclusive, and therefore sues these defendants  
16 by fictitious names. Ms. Heckmann will amend her complaint to add the true names  
17 and capacities of these defendants when they are ascertained. Each of the  
18 fictitiously named Doe defendants is responsible in some manner for the events and  
19 happenings alleged in this complaint and for Ms. Heckmann's damages.

20 14. Ms. Heckmann is informed and believes that at all times mentioned in  
21 this complaint, Does 1-20, inclusive, were the agents, servants, contractors, and  
22 employees of the City, and, in doing the things mentioned in this complaint, were  
23 acting within the course and scope of their authority as such agents, servants,  
24 contractors, and employees with the permission and consent of the City.

25 *General Allegations*

26 15. Ms. Heckmann incorporates by this reference all above allegations of  
27 the Complaint as if fully set forth herein.

1        ***A. Ms. Heckmann's Long-Standing Ties to the City of Rancho Mirage***

2        16. Ms. Heckmann has lived in her home in the City of Rancho Mirage  
3 since approximately 2000.

4        17. Ms. Heckmann's home is situated on approximately 7 acres that are  
5 zoned for residential use, with the actual home located in the center of the property.

6        18. Over the years, Ms. Heckmann has regularly hosted events at her home  
7 in Rancho Mirage for friends, immediate family, and extended family. These events  
8 include holiday gatherings, birthday parties, and weddings.

9        19. Over the years, Ms. Heckmann has regularly hosted events at her home  
10 in Rancho Mirage for various groups and causes in which she is involved. These  
11 events include church functions, events in support of non-profit organizations, and  
12 political events.

13        20. Ms. Heckmann has never received a complaint from a neighbor  
14 regarding any event at her home in Rancho Mirage.

15        21. Ms. Heckmann has never rented her home, for an event or otherwise.

16        ***B. Ordinance No. 1138***

17        22. The Rancho Mirage Municipal Code regulates the use and development  
18 of land throughout the City of Rancho Mirage, including Ms. Heckmann's home in  
19 Rancho Mirage.

20        23. Chapter 5.12 of Title 12 of the Rancho Mirage Municipal Code is  
21 entitled "special event permits."

22        24. In October 2018, the Rancho Mirage City Council adopted Ordinance  
23 No. 1138, which amended Chapter 5.12.

24        25. The purpose of Ordinance No. 1138 was to prohibit "commercial  
25 special events on residential properties" located in Rancho Mirage.

26        26. The Staff Report on Ordinance No. 1138 states that the "proposed  
27 ordinance does not, however, prohibit the use of private residential property by...  
28 the property owner of record for personal special events."



1        27. But, as written, Ordinance No. 1138 does in fact prohibit homeowners  
2 from hosting a gathering of 25 or more people at their own home in Rancho Mirage  
3 except when the gathering benefits or is organized by a non-profit organization.  
4 (Obviously, only a small percentage of private gatherings are for a non-profit  
5 organization.)

6        28. More specifically, Ordinance No. 1138 amended Chapter 5.12 of the  
7 City's Municipal Code to include new provisions governing (i) "Permitted Special  
8 Events" (§ 5.12.025), (ii) "Private Owner Events" (§ 5.12.030), and (iii) "Prohibited  
9 Commercial Events" (§ 5.12.035).

10       29. Section 5.12.025, as added by Ordinance No. 1138, states:

11                **Permitted Special Events.** An event involving the  
12 gathering of twenty-five ( 25) or more persons at a private  
13 residence, with the express permission of the record  
14 owner, located in an area of the city situated in a zoning  
15 district designated for residential use organized by or for a  
16 bona fide tax-exempt non-profit organization may be  
17 permitted provided a special event permit is issued for the  
subject event pursuant to the provisions set forth in this  
chapter.

18       30. Section 5.12.030, as added by Ordinance No. 1138, states:

19                **Private Owner Events.** An event involving the gathering  
20 of less than twenty-five (25) persons at a private residence,  
21 by the record owner-occupant, located in an area of the  
22 city situated in a zoning district designated for residential  
23 use may be permitted without a special event permit,  
unless otherwise provided by this chapter.

24       31. Section 5.12.030 does not address private owner events where 25 or  
25 more people will be in attendance.

26       32. Section 5.12.035, as added by Ordinance No. 1138, states:

27                **Prohibited Commercial Events.** No commercial events  
28 involving the attendance of twenty-five (25) or more

1 persons shall be permitted in any area of the city situated  
2 in zoning districts designated for residential use.

3 33. Ordinance No. 1138 amended Chapter 5.12 to include definitions of a  
4 “commercial event” and a “special event,” but not a “private owner event.”

5 34. Under section 5.12.020, as added by Ordinance No. 1138, a “special  
6 event” is defined as “any assembly or gathering of twenty-five persons or more at,  
7 in or upon any privately-owned property located in areas of the city situated in  
8 zoning districts designated for residential use where any such assembly or gathering  
9 is not explicitly permitted within the subject zone nor permitted pursuant to a city-  
10 approved development entitlement, use permit or license.”

11 35. Under section 5.12.020, as added by Ordinance No. 1138, a  
12 “commercial event” is defined as “any event organized or conducted by any person  
13 or entity, that does not qualify as tax-exempt non-profit organization involving the  
14 gathering of twenty-five (25) or more persons at a private residence located in an  
15 area of the city situated in a zoning district designated for residential use.”

16 36. Therefore, under Ordinance No. 1138, a person’s gathering at her own  
17 home in a residential zone of Rancho Mirage qualifies as a commercial event if (i) it  
18 is not held by or for a non-profit organization, and (ii) 25 or more people attend.

19 37. As such, Ordinance No. 1138 bars a person from hosting 25 or more  
20 people at her home if the home is located in a residential zone of Rancho Mirage  
21 and the gathering is not held by or for a non-profit organization.

22 ***C. Ordinance No. 1138’s Restrictions on Special Events and Gatherings***

23 38. Ordinance No. 1138 revised Chapter 5.12 to include many, new  
24 restrictions on “special events” including the following:

- 25 • Section 5.12.045 prohibits a special event from exceeding six hours in  
26 duration or going past 10:00 P.M.;

- 1           • Section 5.12.050 prohibits a person from hosting a special event if a
- 2           special event was held at that same location in the previous 14 days;
- 3           and
- 4           • Section 5.12.055 prohibits a person from hosting more than five special
- 5           events at the same location within a calendar year.

6           39. Further, section 5.12.080 requires a person to apply for a special event

7 permit 30 days prior to the event and specify, in the application, the nature of the

8 event for which the permit is sought.

9           40. Section 5.12.082 requires a person to pay a special event permit

10 application fee, which the City has currently set at \$252.

11           41. Under section 5.12.083, an applicant may be required to pay “the

12 estimated cost of any public services or equipment the city manager or designee

13 determines is necessary to monitor, administer or control any activities associated

14 with the special event.”

15           42. Under Ordinance No. 1138, there is no way for a person to seek a

16 waiver of fees related to a special event or to appeal the denial of her application for

17 a special event permit.

18           43. Under Ordinance No. 1138, the City may issue citations, infractions,

19 penalties, and thousands of dollars in fines for violations of the revised Chapter

20 5.12.

21           44. Under section 5.12.285, added by Ordinance No. 1138, if a property

22 owner fails to obtain a required special event permit and a complaint is made about

23 her gathering, the City may impose a \$5,000 fine. For subsequent offenses, the City

24 may impose a \$10,000 fine.

25           45. Section 5.12.285 permits additional fines as follows: “If the complaint

26 regarding the condition, operation, or conduct of an unpermitted special event is not

27 corrected within one hour of initial contact and issuance of citation, the city may

28

1 impose a ten thousand dollar fine every hour thereafter until the complaint is  
2 corrected.”

3 ***D. The City’s Policy Towards Private Owner Events and Gatherings***

4 46. Upon information and belief, the City has a policy and/or pattern and  
5 practice of, at least sometimes, treating homeowners’ private gatherings of 25 or  
6 more people at their homes located in residential zones of Rancho Mirage as  
7 “permitted special events” under Ordinance No. 1138, specifically section 5.12.025  
8 of the Rancho Mirage Municipal Code.

9 47. Upon information and belief, under this policy and/or pattern and  
10 practice, the City, at least sometimes, allows homeowners to host non-charitable  
11 gatherings of 25 or more people at their homes if the homeowners comply with  
12 Ordinance No. 1138’s provisions governing “special events” (the “City Policy on  
13 Private Owner Events”).

14 48. Upon information and belief, under the City Policy on Private Owner  
15 Events, when the City does allow homeowners to host non-charitable gatherings of  
16 25 or more people at their home, it requires, amongst other things, the host to submit  
17 an application for a special event permit 30 days prior to the gathering and to pay an  
18 application fee and estimated costs of any public services or equipment the City  
19 deems necessary for the gathering.

20 ***E. The City Restricts Ms. Heckmann’s Use of Her Home and Invades***  
21 ***Her Privacy***

22 49. Ms. Heckmann was scheduled to host a wedding at her home in Rancho  
23 Mirage on or about February 26, 2022, for a close family friend. More than 25  
24 people were expected to attend.

25 50. On or about February 25, 2022, Ms. Heckmann was preparing for the  
26 wedding when a City employee appeared at her home and demanded to see her  
27 permit for the event.  
28

1        51. After Ms. Heckmann explained that she was unaware she needed a  
2 permit to host an event at her own home, the City employee told Ms. Heckmann she  
3 had to shut down the event and that she would be fined \$10,000 per hour for every  
4 hour that the chairs and tables she had set up for the wedding remained standing.

5        52. Confused and distraught (as the wedding was the very next day), Ms.  
6 Heckmann contacted the City, submitted a special event permit to the City, and paid  
7 the City an application fee of approximately \$252.

8        53. After Ms. Heckmann submitted the application and paid the application  
9 fee, the City informed her that she could host the wedding at her home.

10       54. What the City failed to mention was that they would be sending a City  
11 employee to stand outside her home and monitor the event.

12       55. On the day of the wedding, a City employee stood on the sidewalk  
13 outside Ms. Heckmann's home measuring the decibel level and making sure guests  
14 left by 10 P.M.

15       56. The City employee repeatedly contacted Ms. Heckmann during the  
16 wedding with reports about the decibel level.

17       57. About a month later, Ms. Heckmann wanted to host a birthday party for  
18 her twin daughters.

19       58. More than 25 people were expected to attend the birthday party, which  
20 was scheduled for March 26, 2022.

21       59. Concerned that City employees would show up at her home, try to shut  
22 down the event, and/or fine her tens of thousands of dollars, Ms. Heckmann  
23 submitted a special event permit application to the City for approval of the birthday  
24 party.

25       60. The City ignored and/or failed to respond to Ms. Heckmann's  
26 application, again leaving her concerned the City would fine her or try to shut down  
27 the birthday party.

28



1       67. The First Amendment to the United States Constitution protects “the  
2 right of the people peaceably to assemble.”

3       68. The right to assemble is a fundamental right. *See Whitney v. California*,  
4 274 U.S. 357, 373 (1927).

5       69. The First Amendment, as applied to state and municipal governments  
6 through the Fourteenth Amendment, prohibits the government from “abridging” an  
7 individual’s right to assemble.

8       70. The City enacted and enforces Ordinance No. 1138.

9       71. Ordinance No. 1138 violates the First Amendment right to assemble,  
10 both facially and as applied to Ms. Heckmann and those similarly situated.

11       72. Ordinance No. 1138 imposes an outright ban on gatherings of 25 or  
12 more people at homes located in residential zones of Rancho Mirage unless the  
13 gathering is organized by or for a non-profit organization.

14       73. Ordinance No. 1138’s total prohibition on gatherings of 25 or more  
15 people at homes in residential zones of Rancho Mirage that are not organized by or  
16 for a non-profit organization is an unreasonable and impermissible restriction on the  
17 right to assemble.

18       74. Ordinance No. 1138 is unconstitutionally overbroad and therefore void  
19 as a matter of law, both on its face and as applied to Ms. Heckmann.

20       75. Ordinance No. 1138 is not content-neutral as it permits gatherings of 25  
21 or more people held for a non-profit or charitable purpose but prohibits gatherings  
22 of the same size held for non-charitable purposes.

23       76. Ordinance No. 1138 overburdens the right of assembly and is not  
24 narrowly tailored to serve a compelling City interest. Neither does it substantially  
25 relate to a sufficiently important City interest.

26       77. Ordinance No. 1138 bears no rational relationship to any legitimate  
27 City interest. Ordinance No. 1138 is not rationally related to any City interest it  
28 purportedly serves.





1       83. The City Policy on Private Owner Events violates the First Amendment  
2 right to assemble, both facially and as applied to Ms. Heckmann and those similarly  
3 situated for each of the following reasons:

- 4       • The City Policy on Private Owner Events operates as an unconstitutional  
5 prior restraint on constitutionally protected assembly and expression;
- 6       • The City Policy on Private Owner Events violates privacy by requiring an  
7 individual to disclose the nature or purpose of the gathering;
- 8       • The City Policy on Private Owner Events confers standardless discretion  
9 on City officials to grant or deny a special event permit;
- 10       • The City Policy on Private Owner Events confers standardless discretion  
11 on City officials to set an “estimated cost of any public services or  
12 equipment” that the homeowner must pay to obtain a special event permit;
- 13       • The City Policy on Private Owner Events is impermissibly overbroad;
- 14       • The City Policy on Private Owner Events is unconstitutionally vague; and
- 15       • The City Policy on Private Owner Events is selectively applied.

16       84. The City Policy on Private Owner Events is not content-neutral as it  
17 permits gatherings of 25 or more people held for a non-profit and private owner  
18 purposes but prohibits gatherings of the same size held for commercial purposes or  
19 by non-owners.

20       85. The City Policy on Private Owner Events overburdens the right of  
21 assembly and is not narrowly tailored to serve a compelling City interest. Neither  
22 does it substantially relate to a sufficiently important City interest.

23       86. The City Policy on Private Owner Events bears no rational relationship  
24 to any legitimate City interest. The City Policy on Private Owner Events is not  
25 rationally related to any City interest it purportedly serves.

26       87. As a direct and proximate result of the City’s violation of the First  
27 Amendment described above, Ms. Heckmann has been chilled and dissuaded from  
28 exercising her right to assemble at her home in Rancho Mirage. Ms. Heckmann has

1 declined to have gatherings of 25 or more people at her home for fear the City will  
 2 harass Ms. Heckmann regarding the proposed gathering, impose burdensome and  
 3 expensive registration and disclosure requirements, will shut down the event, will  
 4 station its employees outside her home to monitor the gathering and invade her and  
 5 her guests' privacy, and/or will impose burdensome and significant fines on and cite  
 6 Ms. Heckmann or her guests.

7 88. As a direct and proximate result of the City's violations of Ms.  
 8 Heckmann's constitutional rights, Ms. Heckmann has suffered and will continue to  
 9 suffer damages in an amount subject to proof. Ms. Heckmann's damages include  
 10 severe anxiety and emotional distress, harm to reputation, and diminution of the  
 11 value of her property in Rancho Mirage.

12 89. As a result of the City's conduct as set forth above, Ms. Heckmann has  
 13 been compelled to retain legal counsel to prosecute this action and has incurred and  
 14 will continue to incur attorneys' fees and costs. Pursuant to 42 U.S.C. § 1988, Ms.  
 15 Heckmann is entitled to recover attorneys' fees and costs associated with this action.

16 ***Third Claim for Relief***

17 ***For Violation of the Civil Rights Act, 42 U.S.C. § 1983***

18 ***(First Amendment Right of Association)***

19 ***(Against All Defendants)***

20 90. Ms. Heckmann incorporates by this reference all above allegations of  
 21 the Complaint as if fully set forth herein.

22 91. The right to free speech encompasses the right to association, which is  
 23 constitutionally protected in two distinct senses: freedom of expressive association  
 24 and freedom of intimate association.

25 92. The City has interfered and continues to interfere with Ms. Heckmann's  
 26 rights of expressive association and intimate association.

27 93. Expressive association—the right to associate for the purpose of  
 28 engaging in those activities protected by the First Amendment—is governed by First

1 Amendment principles as the Constitution guarantees freedom of association of this  
2 kind as an indispensable means of preserving other individual liberties.

3 94. Intimate association, characterized as “choices to enter into and  
4 maintain certain intimate human relationships” receives protection as a fundamental  
5 element of personal liberty under the Due Process Clause.

6 95. Ordinance No. 1138 and the City Policy on Private Owner Events  
7 violate the First Amendment right to association, both facially and as applied to Ms.  
8 Heckmann and those similarly situated.

9 96. Under Ordinance No. 1138, Ms. Heckmann is prohibited from hosting  
10 a gathering of 25 or more people at her home in Rancho Mirage, which has inhibited  
11 and restricted Ms. Heckmann’s freedom of association, including her right to  
12 expressive and intimate association.

13 97. Under the City Policy on Private Owner Events, Ms. Heckmann is and  
14 has been prevented from hosting gatherings of 25 or more people at her home in  
15 Rancho Mirage unless she complies with Ordinance No. 1138’s rules governing  
16 “special events,” as detailed above. This too has inhibited and restricted Ms.  
17 Heckmann’s freedom of association, including her right to expressive and intimate  
18 association.

19 98. Ms. Heckmann’s rights of association, expressive association, and  
20 intimate association have been chilled by Ordinance No. 1138 and the City Policy  
21 on Private Owner Events. Ms. Heckmann has declined to have gatherings of 25 or  
22 more family members, friends, and/or members or supporters of various religious,  
23 charitable, and political groups in which she is involved at her home in Rancho  
24 Mirage for fear the City will prohibit or shut down the gathering or, in the  
25 alternative, will harass Ms. Heckmann regarding the proposed gathering, impose  
26 burdensome and expensive registration and disclosure requirements, will station its  
27 employees outside her home to monitor the gathering and invade her and her guests’  
28

1 privacy, and will impose burdensome and significant fines on and cite Ms.  
2 Heckmann or her guests.

3 99. As a direct and proximate result of the City's violations of Ms.  
4 Heckmann's constitutional rights, Ms. Heckmann has suffered and will continue to  
5 suffer damages in an amount subject to proof. Ms. Heckmann's damages include  
6 severe anxiety and emotional distress, harm to reputation, and diminution of the  
7 value of her property.

8 100. As a result of the City's conduct as set forth above, Ms. Heckmann has  
9 been compelled to retain legal counsel to prosecute this action and has incurred and  
10 will continue to incur attorneys' fees and costs. Pursuant to 42 U.S.C. § 1988, Ms.  
11 Heckmann is entitled to recover attorneys' fees and costs associated with this action.

12 ***Fourth Claim for Relief***

13 ***For Violation of the Civil Rights Act, 42 U.S.C. § 1983***

14 ***(Fourteenth Amendment Due Process Clause)***

15 ***(Against All Defendants)***

16 101. Ms. Heckmann incorporates by this reference all above allegations of  
17 the Complaint as if fully set forth herein.

18 102. The City adopted and enforces Ordinance No. 1138 and the City Policy  
19 on Private Owner Events.

20 103. Ordinance No. 1138 and the City Policy on Private Owner Events, and  
21 the City's enforcement of both, violate the Due Process Clause of the Fourteenth  
22 Amendment, both facially and as applied to Ms. Heckmann and those similarly  
23 situated.

24 104. Ordinance No. 1138 prohibits Ms. Heckmann from hosting gatherings  
25 of 25 or more people at her home in Rancho Mirage and therefore interferes with  
26 her rights of assembly and association as well as her right to use her property for  
27 legitimate purposes.

28

1           105. On information and belief, under the City Policy on Private Owner  
2 Events, the City prohibits and has prohibited Ms. Heckmann from hosting a  
3 gathering of 25 or more people at her home in Rancho Mirage unless she complies  
4 with Ordinance No. 1138's requirements regarding special events.

5           106. The Due Process Clause of the Fourteenth Amendment states, in  
6 pertinent part, that: "No State shall make or enforce any law which shall abridge the  
7 privileges or immunities of citizens of the United States; nor shall any State deprive  
8 any person of life, liberty, or property, without due process of law..."

9           107. As set forth herein, the City's adoption and enforcement of Ordinance  
10 No. 1138 and the City Policy on Private Owner Events have, without due process of  
11 the law, interfered with and deprived Ms. Heckmann of her constitutionally  
12 protected liberties and rights, including her rights of assembly and association and  
13 her right to use her property for legitimate purposes.

14           108. Further, Ordinance No. 1138 and the City Policy on Private Owner  
15 Events are arbitrary; unreasonable; have no substantial relation to public health,  
16 safety, morals, or general welfare; and shock the conscience.

17           109. Ordinance No. 1138 and the City Policy on Private Owner Events have  
18 chilled and dissuaded Ms. Heckmann from exercising her fundamental rights to  
19 assembly and association and to utilize her home for legitimate purposes. Ms.  
20 Heckmann has declined to host gatherings of 25 or more people at her home for fear  
21 the City will prohibit or shut down the gathering or, in the alternative, will harass  
22 Ms. Heckmann regarding the proposed gathering, impose burdensome and  
23 expensive registration and disclosure requirements, will station its employees  
24 outside her home to monitor the gathering and invade her privacy, and will impose  
25 burdensome and significant fines on and cite Ms. Heckmann or her guests.

26           110. As a direct and proximate result of the City's violations of Ms.  
27 Heckmann's constitutional rights, Ms. Heckmann has suffered and will continue to  
28 suffer damages in an amount subject to proof. Ms. Heckmann's damages include

1 severe anxiety and emotional distress, harm to reputation, and diminution of the  
2 value of her property.

3 111. As a result of the City's conduct as set forth above, Ms. Heckmann has  
4 been compelled to retain legal counsel to prosecute this action and has incurred and  
5 will continue to incur attorneys' fees and costs. Pursuant to 42 U.S.C. § 1988, Ms.  
6 Heckmann is entitled to recover attorneys' fees and costs associated with this action.

7 ***Fifth Claim for Relief***

8 ***For Violation of the California Constitution, Article 1, § 1***

9 ***(Right to Privacy)***

10 ***(Against All Defendants)***

11 112. Ms. Heckmann incorporates by this reference all above allegations of  
12 the Complaint as if fully set forth herein.

13 113. Article 1, Section 1 of the California Constitution guarantees an  
14 individual's right to privacy.

15 114. Under Article 1, Section 1 of the California Constitution, Ms.  
16 Heckmann and others similarly situated have a legally protected privacy interest in  
17 utilizing their homes in residential zones of Rancho Mirage for legitimate purposes,  
18 such as the freedom to assemble and associate without interference, advance  
19 permission, or monitoring by the City.

20 115. Ms. Heckmann and others similarly situated have a reasonable  
21 expectation of privacy in their own homes in residential zones of Rancho Mirage,  
22 including in private gatherings held at those homes.

23 116. Ordinance No. 1138 and the City Policy on Private Owner Events  
24 violate Article 1, § 1 of the California Constitution, both facially and as applied to  
25 Ms. Heckmann and those similarly situated.

26 117. Under Ordinance No. 1138 and the City Policy on Private Owner  
27 Events, individuals are required to notify the City in advance of the date they will  
28

1 hold gatherings of 25 or more people at their homes in Rancho Mirage as well as the  
2 purpose for the gatherings.

3 118. Under Ordinance No. 1138 and the City Policy on Private Owner  
4 Events, the City may and has sent its agents to monitor and interfere with owner's  
5 private gatherings in Rancho Mirage by, amongst other things, standing on the  
6 sidewalk immediately adjacent owners' properties during the entirety of the  
7 gathering(s).

8 119. On or about February 26, 2022, Ms. Heckmann hosted a private  
9 wedding at her home in Rancho Mirage with more than 25 people in attendance.

10 120. On or about February 26, 2022, and without prior notice to Ms.  
11 Heckmann, the City positioned an employee or agent stood outside Ms. Heckmann's  
12 home during the private wedding to monitor the event, the decibel level, and the  
13 guests.

14 121. Ordinance No. 1138 and the City Policy on Private Owner Events  
15 overburden the right to privacy and are not narrowly tailored to serve a compelling  
16 government interest. Neither do they substantially relate to a sufficiently important  
17 City interest.

18 122. Ordinance No. 1138 and the City Policy on Private Owner Events bear  
19 no rational relationship to any legitimate City interest. Ordinance No. 1138 and the  
20 City Policy on Private Owner Events are not rationally related to any City interest  
21 they purportedly serve.

22 123. As a direct and proximate result of the City's violation of Ms.  
23 Heckmann's right to privacy, Ms. Heckmann has been chilled and dissuaded from  
24 exercising her right to assemble at her home in Rancho Mirage.

25 124. As a direct and proximate result of the City's violations of Ms.  
26 Heckmann's constitutional rights, Ms. Heckmann has suffered and will continue to  
27 suffer damages.

28

1 125. Ms. Heckmann has found it necessary to engage the services of private  
2 counsel to vindicate the right to privacy for herself and those similarly situated. Ms.  
3 Heckmann is therefore entitled to an award of attorneys' fees pursuant to California  
4 Code of Civil Procedure § 1021.5.

5 *Sixth Claim for Relief*  
6 *For Violation of the California Constitution, Article 1, § 3*  
7 *(Right to Assemble)*  
8 *(Against All Defendants)*

9 126. Ms. Heckmann incorporates by this reference all above allegations of  
10 the Complaint as if fully set forth herein.

11 127. Article 1, Section 3 of the California Constitution guarantees an  
12 individual's right to assemble.

13 128. By committing the acts alleged herein, the City violated the rights of  
14 Ms. Heckmann and those similarly situated to freely assemble.

15 129. By committing the acts alleged herein, the City has chilled and  
16 dissuaded Ms. Heckmann from exercising her fundamental rights to assembly and to  
17 utilize her home for legitimate purposes. Ms. Heckmann has declined to host  
18 gatherings of 25 or more people at her home for fear the City will prohibit or shut  
19 down the gathering or, in the alternative, will harass Ms. Heckmann regarding the  
20 proposed gathering, impose burdensome and expensive registration and disclosure  
21 requirements, will station its employees outside her home to monitor the gathering  
22 and invade her and her guests' privacy, and will impose burdensome and significant  
23 fines on and cite Ms. Heckmann or her guests.

24 130. As a direct and proximate result of the City's violations of Ms.  
25 Heckmann's constitutional rights, Ms. Heckmann has suffered and will continue to  
26 suffer damages.

27 131. Ms. Heckmann has found it necessary to engage the services of private  
28 counsel to vindicate her rights and the rights of those similarly situated. Ms.



1 Heckmann is therefore entitled to an award of attorneys' fees pursuant to California  
2 Code of Civil Procedure § 1021.5.

3 *Seventh Claim for Relief*  
4 *For Declaratory Relief and Related Injunctive Relief*  
5 *(Against All Defendants)*

6 132. Ms. Heckmann incorporates by this reference all above allegations of  
7 the Complaint as if fully set forth herein.

8 133. A dispute and actual controversy has arisen and now exists between the  
9 Ms. Heckmann and the City regarding the rights, duties, and obligations of the  
10 parties to each other as a result of Ordinance No. 1138 and the City Policy on  
11 Private Owner Events.

12 134. Ms. Heckmann requests a judicial determination of the respective  
13 rights, duties, and obligations of the parties pursuant to 42 U.S.C. § 1983 and 28  
14 U.S.C. §§ 2201, 2202. In particular, Ms. Heckmann requests a judicial declaration  
15 that Ordinance No. 1138 is unconstitutional and a facial violation of the First and  
16 Fourteenth Amendments to the United States Constitution and Article 1, Sections 1  
17 and 3 of the California Constitution for the reasons set forth above. Ms. Heckmann  
18 also requests a judicial declaration that the City Policy on Private Owner Events is  
19 also unconstitutional and a facial violation of the First and Fourteenth Amendments  
20 to the United States Constitution and Article 1, Sections 1 and 3 of the California  
21 Constitution for the reasons set forth above.

22 135. Ms. Heckmann and the City have adverse interests with respect to the  
23 Court's declaration on the issues above.

24 136. Ms. Heckmann and those similarly situated have suffered and will  
25 continue to suffer ongoing and continuous injuries so long as the City continues  
26 enforcing Ordinance No. 1138 and the City Policy on Private Owner Events.

27 137. Accordingly, the requested declaratory relief is necessary and will fully  
28 and finally resolve the uncertainty and controversy as to Ms. Heckmann's obligation

1 to comply with and the City's ability to enforce Ordinance No. 1138 and the City  
2 Policy on Private Owner Events.

3 138. Additionally, Ms. Heckmann seeks a related order from this Court  
4 enjoining the City from enforcing Ordinance No. 1138 and the City Policy on  
5 Private Owner Events. *See* 28 U.S.C. § 2202; *Powell v. McCormack*, 395 U.S. 486,  
6 499 (1969).

7 139. The requested injunctive relief is "further necessary or proper relief  
8 based on" the requested declaratory judgment as Ordinance No. 1138 and the City  
9 Policy on Private Owner Events are infringing on Ms. Heckmann's first amendment  
10 rights, and "[t]he loss of First Amendment freedoms, for even minimal periods of  
11 time, unquestionably constitutes irreparable injury." *S.O.C., Inc. v. County of*  
12 *Clark*, 152 F.3d 1136, 1148 (9th Cir. 1998); 28 U.S.C. § 2202.

13 140. Further, Ms. Heckmann has no adequate remedy at law and will suffer  
14 serious and irreparable harm to her constitutional rights unless the City is enjoined  
15 from implementing and enforcing Ordinance No. 1138 and the City Policy on  
16 Private Owner Events.

17 141. As a result of the City's conduct as set forth above, Ms. Heckmann has  
18 been compelled to retain legal counsel to prosecute this action and has incurred and  
19 will continue to incur attorneys' fees and costs. Pursuant to 42 U.S.C. § 1988, Ms.  
20 Heckmann is entitled to recover attorneys' fees and costs associated with this action.

21  
22 ***Prayer for Relief***

23 WHEREFORE, Ms. Heckmann prays for judgment in her favor and against  
24 the City as follows:

- 25 1. For compensatory damages as permitted by law and according to proof.  
26 2. A judicial declaration that Ordinance No. 1138 violates the First and  
27 Fourteenth Amendments to the United States Constitution and Article 1, Sections 1  
28 and 3 of the California Constitution, and is thus unconstitutional.



**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury in the above-captioned matter on all issues so triable.

Dated: November 16, 2022

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
K. ERIK FRIESS  
KELLY C. SMITH

By: /s/ Kelly C. Smith

KELLY C. SMITH  
Attorneys for Plaintiff  
WENDY HOPE HECKMANN

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**I. (a) PLAINTIFFS** ( Check box if you are representing yourself ☐ )

Wendy Hope Heckmann

**DEFENDANTS** ( Check box if you are representing yourself ☐ )

The City of Rancho Mirage and Doe 1 through Doe 20, inclusive

(b) County of Residence of First Listed Plaintiff Riverside

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Riverside

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

K. Erik Friess/Kelly C. Smith  
Allen Matkins Leck Mallory & Natsis LLP  
2010 Main Street, 8th Floor, Irvine, CA 92614  
(949) 553-1313

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**-For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant)

- |   |                                |                                |   |                                |                                |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2     | <input type="checkbox"/> 2     | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5     | <input type="checkbox"/> 5     |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3     | <input type="checkbox"/> 3     | Foreign Nation  | <input type="checkbox"/> 6     | <input type="checkbox"/> 6     |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1. Original Proceeding
- ☐ 2. Removed from State Court
- ☐ 3. Remanded from Appellate Court
- ☐ 4. Reinstated or Reopened
- ☐ 5. Transferred from Another District (Specify)
- ☐ 6. Multidistrict Litigation - Transfer
- ☐ 8. Multidistrict Litigation - Direct File

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ According to proof

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
Violation of the Civil Rights Act, 42 U.S.C. § 1983, for violation of the First Amendment rights of assembly and association; declaratory and related relief pursuant to 28 U.S.C. §§ 2201, 2202; violation of the California Constitution.

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<b>Habeas Corpus:</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b>	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<b>Other:</b>	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 485 Telephone Consumer Protection Act	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE/PENALTY</b>	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 890 Other Statutory Actions	<b>REAL PROPERTY</b>	<input type="checkbox"/> 360 Other Personal Injury	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<b>LABOR</b>	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

**FOR OFFICE USE ONLY:**

Case Number:

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII. VENUE:** Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

<b>QUESTION A: Was this case removed from state court?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th align="center" colspan="2">STATE CASE WAS PENDING IN THE COUNTY OF:</th> <th align="center">INITIAL DIVISION IN CAD IS:</th> </tr> <tr> <td><input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo</td> <td></td> <td align="center">Western</td> </tr> <tr> <td><input type="checkbox"/> Orange</td> <td></td> <td align="center">Southern</td> </tr> <tr> <td><input type="checkbox"/> Riverside or San Bernardino</td> <td></td> <td align="center">Eastern</td> </tr> </table>	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CAD IS:	<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western	<input type="checkbox"/> Orange		Southern	<input type="checkbox"/> Riverside or San Bernardino		Eastern	
STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CAD IS:												
<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western												
<input type="checkbox"/> Orange		Southern												
<input type="checkbox"/> Riverside or San Bernardino		Eastern												
<b>QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question C. If "yes," answer Question B.1, at right.	<b>B.1.</b> Do 50% or more of the defendants who reside in the district reside in Orange Co?  <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question B.2.												
	<b>B.2.</b> Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.												
<b>QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question D. If "yes," answer Question C.1, at right.	<b>C.1.</b> Do 50% or more of the plaintiffs who reside in the district reside in Orange Co?  <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question C.2.												
	<b>C.2.</b> Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.												
<b>QUESTION D: Location of plaintiffs and defendants?</b>	<b>A.</b> Orange County	<b>B.</b> Riverside or San Bernardino County	<b>C.</b> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County											
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>											
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>											
<b>D.1. Is there at least one answer in Column A?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "yes," your case will initially be assigned to the SOUTHERN DIVISION.  Enter "Southern" in response to Question E, below, and continue from there.  If "no," go to question D2 to the right. →	<b>D.2. Is there at least one answer in Column B?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  If "yes," your case will initially be assigned to the EASTERN DIVISION.  Enter "Eastern" in response to Question E, below.  If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓													
<b>QUESTION E: Initial Division?</b>	INITIAL DIVISION IN CAD													
Enter the initial division determined by Question A, B, C, or D above: →	EASTERN													
<b>QUESTION F: Northern Counties?</b>														
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No														

**IX(a). IDENTICAL CASES:** Has this action been previously filed in this court?

☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**IX(b). RELATED CASES:** Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**Civil cases** are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

**A civil forfeiture case and a criminal case** are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

**X. SIGNATURE OF ATTORNEY**

**(OR SELF-REPRESENTED LITIGANT):** /s/ Kelly C. Smith

**DATE:** 11/16/2022

**Notice to Counsel/Parties:** The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

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11 Attorneys for Plaintiff  
12 WENDY HOPE HECKMANN

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 EASTERN DIVISION

16 WENDY HOPE HECKMANN,

17 Plaintiff,

18 vs.

19 THE CITY OF RANCHO MIRAGE;  
20 and DOE 1 through DOE 20, inclusive,

21 Defendants.

Case No. 5:22-cv-2031

**PLAINTIFF WENDY HOPE  
HECKMANN'S NOTICE OF  
INTERESTED PARTIES**



Pursuant to Local Rule 7.1-1, the undersigned, counsel of record for Plaintiff Wendy Hope Heckmann, certifies that the following listed party (or parties) may have a pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal.

Under Local Rule 7.1-1, this list includes all persons, associations of persons, firms, partnerships, and corporations (including parent corporations, clearly identified as such) that may have a pecuniary interest in the outcome of the case, including any insurance carrier that may be liable in whole or in part (directly or indirectly) for a judgment in the action or for the cost of defense.

PARTY	CONNECTION / INTEREST
Wendy Hope Heckmann	Named Plaintiff

Dated: November 16, 2022

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
K. ERIK FRIESS  
KELLY C. SMITH

By: /s/ Kelly C. Smith

KELLY C. SMITH  
Attorneys for Plaintiff  
WENDY HOPE HECKMANN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES**

This case has been assigned to:

District Judge Jesus G. Bernal  
Magistrate Judge Shashi H. Kewalramani

The case number on all documents filed with the Court should read as follows:

**5:22-cv-02031 JGB (SHKx)**

District judges in the Central District of California refer all discovery-related motions to the assigned magistrate judge pursuant to General Order No. 05-07. Discovery-related motions should be noticed for hearing before the assigned magistrate judge. Please refer to the assigned judges' Procedures and Schedules, available on the Court's website at [www.cacd.uscourts.gov/judges-requirements](http://www.cacd.uscourts.gov/judges-requirements), for additional information.

Clerk, U.S. District Court

November 17, 2022  
Date

By /s/ Jeannine Tillman  
Deputy Clerk

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**ATTENTION**

*The party that filed the case-initiating document in this case (for example, the complaint or the notice of removal) must serve a copy of this Notice on all parties served with the case-initiating document. In addition, if the case-initiating document in this case was electronically filed, the party that filed it must, upon receipt of this Notice, promptly deliver mandatory chambers copies of all previously filed documents to the newly assigned-district judge. See L.R. 5-4.5. A copy of this Notice should be attached to the first page of the mandatory chambers copy of the case-initiating document.*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

WENDY HOPE HECKMAN	CASE NUMBER:
Plaintiff(s)	5:22-cv-02031-JGB-SHK
v.	
THE CITY OF RANCHO MIRAGE, et al.	
Defendant(s).	<b>NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM</b>

**NOTICE TO PARTIES:**

It is the policy of this Court to encourage settlement of civil litigation when such is in the best interest of the parties. The Court favors any reasonable means, including alternative dispute resolution (ADR), to accomplish this goal. *See* L.R. 16-15. Unless exempted by the trial judge, parties in all civil cases must participate in an ADR process before trial. *See* L.R. 16-15.1.

The district judge to whom the above-referenced case has been assigned is participating in an ADR Program that presumptively directs this case to either the Court Mediation Panel or to private mediation. *See* General Order No. 11-10, §5. For more information about the Mediation Panel, visit the Court website, [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov), under “ADR.”

Pursuant to L.R. 26-1(c), counsel are directed to furnish and discuss with their clients the attached ADR Notice To Parties *before* the conference of the parties mandated by Fed.R.Civ.P. 26(f). Based upon the consultation with their clients and discussion with opposing counsel, counsel must indicate the following in their Joint 26(f) Report: 1) whether the case is best suited for mediation with a neutral from the Court Mediation Panel or private mediation; and 2) when the mediation should occur. *See* L.R. 26-1(c).

At the initial scheduling conference, counsel should be fully prepared to discuss their preference for referral to the Court Mediation Panel or to private mediation and when the mediation should occur. The Court will enter an Order/Referral to ADR at or around the time of the scheduling conference.

Clerk, U.S. District Court

November 17, 2022  
Date

By /s/ Jeannine Tillman  
Deputy Clerk

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE TO PARTIES: COURT POLICY ON SETTLEMENT  
AND USE OF ALTERNATIVE DISPUTE RESOLUTION (ADR)  
Counsel are required to furnish and discuss this Notice with their clients.**

Despite the efforts of the courts to achieve a fair, timely and just outcome in all cases, litigation has become an often lengthy and expensive process. For this reason, it is this Court's policy to encourage parties to attempt to settle their disputes, whenever possible, through alternative dispute resolution (ADR).

ADR can reduce both the time it takes to resolve a case and the costs of litigation, which can be substantial. ADR options include mediation, arbitration (binding or non-binding), neutral evaluation (NE), conciliation, mini-trial and fact-finding. ADR can be either Court-directed or privately conducted.

The Court's ADR Program offers mediation through a panel of qualified and impartial attorneys who will encourage the fair, speedy and economic resolution of civil actions. Panel Mediators each have at least ten years of legal experience and are appointed by the Court. They volunteer their preparation time and the first three hours of a mediation session. This is a cost-effective way for parties to explore potential avenues of resolution.

This Court requires that counsel discuss with their clients the ADR options available and instructs them to come to the initial scheduling conference prepared to discuss the parties' choice of ADR option. The ADR options available are: a settlement conference before the magistrate judge assigned to the case or the magistrate judge in Santa Barbara, the Court Mediation Panel, and private mediation. Counsel are also required to indicate the client's choice of ADR option in advance of the initial scheduling conference. *See* L.R. 26-1(c) and Fed.R.Civ.P. 26(f).

Clients and their counsel should carefully consider the anticipated expense of litigation, the uncertainties as to outcome, the time it will take to get to trial, the time an appeal will take if a decision is appealed, the burdens on a client's time, and the costs and expenses of litigation in relation to the amounts or stakes involved.

Each year thousands of civil cases are filed in this district, yet typically no more than one percent go to trial. Most cases are settled between the parties, voluntarily dismissed, resolved through Court-directed or other forms of ADR, or dismissed by the Court as lacking in merit or for other reasons provided by law.

For more information about the Court's ADR Program, the Mediation Panel, and the profiles of mediators, visit the Court website, [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov), under "ADR."

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WENDY HOPE HECKMAN

PLAINTIFF(S),

v.

THE CITY OF RANCHO MIRAGE, et al.

DEFENDANT(S).

CASE NUMBER:

5:22-cv-02031-JGB-SHK

**Notice to Counsel Re Consent to Proceed  
Before a United States Magistrate Judge**

The parties are advised they may consent to proceed before any available magistrate judge participating in the Voluntary Consent to Magistrate Judges Program to conduct all further proceedings in the case pursuant to 28 U.S.C. § 636(c) and Federal Rules of Civil Procedure 73. The consent list and consent form are available on the court's website at <http://www.cacd.uscourts.gov/judges-requirements/court-programs/voluntary-consent-magistrate-judges-program>. To confirm a particular magistrate judge's availability to schedule the trial in the time frame desired by the parties and/or willingness to accommodate any other special requests of the parties, please contact the magistrate judge's courtroom deputy prior to filing the consent.

Since magistrate judges do not handle felony criminal trials, civil trial dates are not at risk of being preempted by a felony criminal trial, which normally has priority. Further, in some cases, the magistrate judge may be able to assign an earlier trial date than a district judge. The parties can select a participating Magistrate Judge from any of the three divisions in the Central District of California. There may be other advantages or disadvantages which you will want to consider.

The plaintiff or removing party must serve this Notice on each named party in the case.

Hon. Jesus G. Bernal  
USDC Central Riverside Courtroom 1  
Courtroom Deputy: Maynor Galvez (951-328-2254)  
Email: maynor\_galvez@cacd.uscourts.gov  
<https://www.cacd.uscourts.gov/honorable-jesus-g-berna>  
393050.00001 *Wendy Heckman v City of Rancho Mirage*  
USDC CA Central Case No. 5:22-cv-02031-JGB-SHK

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

	)	CASE NO.
	)	
Plaintiff(s),	)	ORDER SETTING SCHEDULING
	)	CONFERENCE
v.	)	
	)	<b>Date:</b>
	)	<b>Time:</b>
	)	<b>Courtroom: 1</b>
Defendant(s) .	)	<b>3470 Twelfth Street</b>
	)	<b>Riverside, California 92501</b>

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**READ THIS ORDER CAREFULLY. IT DIFFERS IN  
SOME RESPECTS FROM THE LOCAL RULES.**

This case has been assigned to Judge Jesus G. Bernal. This matter is set for a scheduling conference on the above date. If plaintiff has not already served the operative complaint on all defendants, plaintiff *promptly* shall do so and shall file proofs of service within three days thereafter. Defendants also timely shall serve and file their responsive pleadings and file proofs of service within three days thereafter. At the scheduling conference, the Court will set a date by which motions to amend the pleadings or add parties must be heard.

1 The conference will be held pursuant to Rule 16(b) of the  
2 Federal Rules of Civil Procedure. The parties are reminded of  
3 their obligations under Rule 26(f) to confer on a discovery plan  
4 not later than 21 days before the scheduling conference and to  
5 e-file a "Joint Rule 26(f) Report" with the Court not later than  
6 14 days before the conference. Mandatory paper chambers copies  
7 of the Joint Rule 26(f) Report must be delivered to Judge  
8 Bernal's drop box outside the door of Courtroom 1 by 5:00 p.m.  
9 on the first court day following the e-filing.

10 The Court encourages counsel to begin to conduct discovery  
11 actively *before* the Scheduling Conference. At the very least,  
12 the parties shall comply fully with the letter and spirit of  
13 Rule 26(a) and thereby obtain and produce most of what would be  
14 produced in the early stage of discovery, because at the  
15 Scheduling Conference the Court will impose strict deadlines to  
16 complete discovery.

17 This Court does not exempt parties appearing *in propria*  
18 *persona* from compliance with any of the Local Rules, including  
19 Local Rule 16. "Counsel," as used in this order, includes  
20 parties appearing *in propria persona*.

21  
22 **1. Joint Rule 26(f) Report**

23 The Joint Rule 26(f) Report, which shall be filed **not later**  
24 **than 14 days** before the scheduling conference, shall be drafted  
25 by plaintiff (unless the parties agree otherwise), but shall be  
26 submitted and signed jointly. "Jointly" contemplates a single  
27 report, regardless of how many separately-represented parties  
28 there are. The Joint Rule 26(f) Report shall specify the date

1 of the scheduling conference on the caption page. It shall  
2 report on all matters described below, which include those  
3 required to be discussed by Rule 26(f) and L.R. 26:

- 4 a. Statement of the Case: A short synopsis (not to  
5 exceed two pages) of the main claims, counterclaims  
6 and affirmative defenses.
- 7 b. Subject Matter Jurisdiction: A statement of the  
8 **specific** basis of federal jurisdiction, including  
9 supplemental jurisdiction.
- 10 c. Legal Issues: A brief description of the **key legal**  
11 **issues**, including any unusual substantive, procedural  
12 or evidentiary issues.
- 13 d. Parties, Evidence, etc.: A list of parties, witnesses  
14 and key documents on the main issues in the case. For  
15 conflict purposes, corporate parties must identify all  
16 subsidiaries, parents and affiliates.
- 17 e. Damages: The realistic range of provable damages.
- 18 f. Insurance: Whether there is insurance coverage, the  
19 extent of coverage and whether there is a reservation  
20 of rights.
- 21 g. Motions: A statement of the likelihood of motions  
22 seeking to add other parties or claims, file amended  
23 pleadings, transfer venue, etc.
- 24 h. Manual for Complex Litigation: Whether all or part of  
25 the procedures of the Manual for Complex Litigation  
26 should be utilized.
- 27 i. Status of Discovery: A discussion of the present  
28 state of discovery, including a summary of completed



discovery.

- j. Discovery Plan: A detailed discovery plan, as contemplated by Rule 26(f). State what, if any, changes in the disclosures under Rule 26(a) should be made, the subjects on which discovery may be needed and whether discovery should be conducted in phases or otherwise be limited, whether applicable limitations should be changed or other limitations imposed, and whether the Court should enter other orders. A statement that discovery will be conducted as to all claims and defenses, or other vague description, is not acceptable.
- k. Discovery Cut-off: A proposed discovery cut-off date. This means the final day for **completion of discovery**, including resolution of all discovery motions.
- l. Expert Discovery: Proposed dates for expert witness disclosures (initial and rebuttal) and expert discovery cut-off under Rule 26(a)(2).
- m. Dispositive Motions: A description of the issues or claims that any party believes may be determined by motion for summary judgment or motion *in limine*.
- n. Settlement/Alternative Dispute Resolution (ADR): A statement of what settlement discussions or written communications have occurred (**excluding any statement of the terms discussed**). If counsel have received a Notice to Parties of Court-Directed ADR Program (Form ADR-08), the case presumptively will be referred to the Court Mediation Panel or private mediation (at the

1 parties' expense). If the parties jointly desire a  
2 settlement conference with the assigned magistrate  
3 judge, they should so indicate in their report. No  
4 case will proceed to trial unless all parties,  
5 including an officer (with full authority to settle  
6 the case) of all corporate parties, have appeared  
7 personally at an ADR proceeding.

8 o. Trial Estimate: A realistic estimate of the time  
9 required for trial and whether trial will be by jury  
10 or by court. Each side should specify (by number, not  
11 by name) how many witnesses it contemplates calling.

12 p. Trial Counsel: The name(s) of the attorney(s) who  
13 will try the case.

14 q. Independent Expert or Master: Whether this is a case  
15 where the Court should consider appointing a master  
16 pursuant to Rule 53 or an independent scientific  
17 expert.

18 r. Timetable: **Complete the Schedule of Pretrial and**  
19 **Trial Dates form attached as Exhibit A to this Order**  
20 **and attach it to the Joint Rule 26(f) Report.** Each  
21 side should write in the month, day, and year it  
22 requests for each event. At the conference, the Court  
23 will review this form with counsel. Each entry  
24 proposing Court dates shall fall on a Monday, except  
25 the trial date, which is a Tuesday. Counsel should  
26 insure that requested dates do not fall on a holiday.  
27 In appropriate cases the Court will order different  
28 dates after it hears from counsel. The discovery cut-

1 off date is the last day by which all depositions must  
2 be completed, responses to previously-served written  
3 discovery must be provided, and motions concerning  
4 discovery disputes must be heard. The cut-off date  
5 for motions is the last date on which motions may be  
6 **heard**, not filed.

7 s. Other issues: A statement of any other issues  
8 affecting the status or management of the case (e.g.,  
9 unusually complicated technical or technological  
10 issues, disputes over protective orders,  
11 extraordinarily voluminous document production, non-  
12 English speaking witnesses, ADA-related issues,  
13 discovery in foreign jurisdictions, etc.) and any  
14 proposals concerning severance, bifurcation, or other  
15 ordering of proof.

16 The Joint Rule 26(f) Report should set forth the above-  
17 described information under section headings corresponding to  
18 those in this Order.

## 19 20 2. Scheduling Conference

21 Scheduling conferences will be held in Courtroom 1, 3470  
22 Twelfth Street, Riverside, California. Counsel shall comply  
23 with the following:

24 a. Participation: **Lead trial counsel for all parties**  
25 **must be present**. Counsel must be prepared to discuss  
26 the substantive issues in the case and authorized to  
27 address scheduling with the Court and opposing  
28 counsel.

1           b. Continuance: A continuance of the scheduling  
2                           conference will be granted only for good cause.  
3

4           **3. Notice to be Provided by Counsel**

5           Plaintiff's counsel or, if plaintiff is appearing *pro se*,  
6           defendant's counsel, shall provide this Order to any parties who  
7           first appear after the date of this Order and to parties who are  
8           known to exist but have not yet entered appearances.  
9

10           **4. Court's Website**

11           Copies of this and all other orders of this Court that may  
12           become applicable to this case are available on the Central  
13           District of California website, at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov), under  
14           "Judge's Procedures and Schedules." Copies of the Local Rules  
15           are available on the website.<sup>1</sup>  
16

17           IT IS SO ORDERED.  
18  
19  
20  
21  
22  
23  
24  
25

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26           <sup>1</sup> They may also be purchased from one of the following:

27   Los Angeles Daily Journal	West Publishing Company	Metropolitan News
915 East First Street	50 West Kellogg Blvd.	210 South Spring Street
Los Angeles, CA 90012	St. Paul, MN 55164-9979	Los Angeles, CA 90012

28

JUDGE JESUS B. BERNAL  
EXHIBIT A: SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

<b>Case No.</b>			
<b>Case Name</b>			
<b>Matter</b>	<b>Plaintiff(s)' Request mo/day/year</b>	<b>Defendant(s)' Request mo/day/year</b>	<b>Court's Order</b>
<input type="checkbox"/> Jury Trial    or <input type="checkbox"/> Court Trial <b>(Tuesday at 9:00 a.m.)</b> Length: _____ Days			
Final Pretrial Conference [L.R. 16] and Hearing on Motions <i>In Limine</i> <b>(Monday - <u>two (2)</u> weeks before trial date)</b>			
Last Date to Conduct Settlement Conference			
Last Date to <b>Hear</b> Non-discovery Motions (Monday at 9:00 a.m.)			
All Discovery Cut-Off (including hearing all discovery motions)			
Expert Disclosure (Rebuttal)			
Expert Disclosure (Initial)			
Last Date to Amend Pleadings or Add Parties			

ADR [L.R. 16-15] Settlement Choice:

- ☐ Attorney Settlement Officer Panel
- ☐ Private Mediation
- ☐ Magistrate Judge

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

	)	Case No.
	)	
Plaintiff,	)	<b>STANDING ORDER</b>
	)	
v.	)	
	)	
	)	
Defendant.	)	
_____	)	

**READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE  
AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

- Plaintiff(s) shall immediately serve this Order on all parties along with the Summons and Complaint.
- If this case came to the Court by noticed removal, the removing Defendant(s) shall serve this Order on all other parties.

This action has been assigned to the calendar of Judge Jesus G. Bernal.

1       The Court and litigants bear joint responsibility for the  
2 progress of litigation in the Federal Courts. To secure the just,  
3 speedy, and inexpensive determination of every action, (Fed. R.  
4 Civ. P. 1), all counsel are hereby ordered to become familiar with  
5 the Federal Rules of Civil Procedure and the Local Rules of the  
6 Central District of California.\*

7  
8       The Court further orders as follows:

9  
10       **1. Service of the Complaint.** Plaintiff shall serve the  
11 Complaint promptly in accordance with Fed. R. Civ. P. 4 and file  
12 the proofs of service pursuant to L.R. 5-3.1.

13  
14       **2. Removed Actions.** Any answers filed in state court must  
15 be re-filed in this Court (separately) as a supplement to the  
16 petition. Any pending motions must be re-noticed in accordance  
17 with L.R. 6-1.

18  
19       **3. Assignment to a Magistrate Judge.** Under 28 U.S.C. § 636,  
20 the parties may consent to have a Magistrate Judge preside over all  
21 proceedings. The Magistrate Judges who accept those designations  
22 are identified on the Central District's website, which also  
23 contains the consent form.

24  
25       **4. Electronic Filing.** As of January 1, 2008, the United  
26 States District Court for the Central District of California  
27 implemented mandatory electronic filing ("e-filing") of documents  
28

1 in all new and pending civil cases. Information about the Court's  
2 Electronic Case Filing system is available on the Court's website  
3 at [www.cacd.uscourts.gov/cmecf](http://www.cacd.uscourts.gov/cmecf).

4 All documents required to be "e-filed" in this matter can be  
5 found in General Order No. 10-07 and L.R. 5-4. The Court  
6 specifically directs litigants to L.R. 5-4.3.1, requiring that all  
7 electronically filed documents be created by publishing the  
8 document to PDF, and not by scanning paper documents.

9  
10 **5. Mandatory Chambers Copies. Counsel shall provide one**  
11 **conformed chambers copy of ONLY the following filed documents.**

12 **Civil matters:** Motions and related documents (opposition,  
13 replies, exhibits); ex parte applications and related  
14 documents oppositions and exhibits); and Joint Rule 26(f)  
15 reports;

16  
17 **Criminal matters:** All motions and related documents and  
18 exhibits; plea agreements(s); and sentencing memorandum and  
19 objections to the pre-sentence reports.

20  
21 Chambers copies shall be delivered to the "Courtesy Box,"  
22 located outside of Courtroom 1 on the 2nd floor at the United  
23 States District Court, 3470 Twelfth Street, Riverside, California  
24 92501, **no later than 5:00 p.m. on the day following the "e-filing."**

25 All chambers copies shall comply fully with the document  
26 formatting requirements of L.R. 11-3, including the "backing" and  
27 "tabbing" requirements of Local Rules 11-3.5 and 11-5.3,



1 respectively. If the filing party and their counsel fail to  
2 deliver a mandatory chambers copy in full compliance with this  
3 Order and L.R. 11-3, the Court may, on its own motion, reschedule  
4 any related hearing and impose sanctions.

5  
6 **6. Proposed Orders.** Each party filing or opposing a motion  
7 or seeking the determination of any matter shall serve and  
8 electronically lodge a proposed order which sets forth the relief  
9 or action sought and a brief statement of the rationale for the  
10 decision with appropriate citations.

11  
12 **7. Presence of Lead Counsel.** Lead trial counsel for each  
13 party must attend any scheduling and pretrial conferences set by  
14 the Court. Failure of lead trial counsel to appear for those  
15 proceedings is a basis for sanctions.

16  
17 **8. Discovery.** All discovery matters have been referred to a  
18 United States Magistrate Judge. The Magistrate Judge's initials  
19 follow the District Judge's initials in the case number assigned to  
20 the matter. The words "DISCOVERY MATTER" shall appear in the  
21 caption of all documents relating to discovery to insure proper  
22 routing. Counsel shall deliver mandatory chambers copies of  
23 discovery-related papers to the Magistrate Judge assigned to the  
24 case rather than to this Court.

1           **9.    Motions - General Requirements.**

2           a.    Time for Hearing Motions.   Motions shall be filed  
3 and set for hearing in accordance with L.R. 6-1.   Motions will be  
4 heard on Mondays commencing at 9:00 a.m.   Any motion noticed for a  
5 holiday shall automatically be set to the next Monday without  
6 further notice to the parties.

7           b.    Length and Format of Motions.   Memoranda of Points  
8 and Authorities in support of or in opposition to motions shall not  
9 exceed 25 pages.   Replies shall not exceed 12 pages.   Only in rare  
10 instances, and for good cause shown, will the Court grant an  
11 application to extend these page limitations.   When citing to legal  
12 databases, wherever possible cite to Westlaw rather than Lexis.

13           If documentary evidence in support of or in opposition to a  
14 motion exceeds 50 pages, the evidence must be separately bound and  
15 tabbed and include an index.   If such evidence exceeds 200 pages,  
16 the documents shall be placed in a binder, with an index and with  
17 each item of evidence separated by a tab divider.

18           c.    Withdrawal or Non-Opposition of Motions.   **In the**  
19 **event that the parties resolve a pending motion, they must notify**  
20 **the Court approximately one week before the hearing date.**

21 Sanctions may issue for failure to comply with this requirement, or  
22 the broader requirement in L.R. 7-16 that any party who intends to  
23 withdraw a motion, not oppose a motion, or seek a continuance of  
24 the hearing date for a motion, **must notify the court by noon on the**  
25 **Tuesday preceding the hearing date.**

1       **10. Motions to Amend.** In addition to the requirements of  
2 L.R. 15, all motions to amend pleadings shall (1) state the effect  
3 of the amendment and (2) identify the page(s), line number(s), and  
4 wording of any proposed change or addition of material.

5  
6       **11. Class Actions.** Notwithstanding Local Rule 23-3, the  
7 deadline for the filing of a motion for class certification will be  
8 set during the Scheduling Conference and/or in a Scheduling Order.  
9 **NO REQUEST FOR RELIEF FROM LOCAL RULE 23-3 IS NECESSARY.**

10  
11       **12. Motions for Summary Judgment or Partial Summary Judgment.**  
12 No party may file more than one motion pursuant to Fed. R. Civ. P.  
13 56 regardless of whether such motion is denominated as a motion for  
14 summary judgment or summary adjudication. Parties offering  
15 evidence in support of, or in opposition to, a Rule 56 motion must  
16 cite to specific page and line numbers in depositions and paragraph  
17 numbers in affidavits. Furthermore, such evidence must be  
18 authenticated properly. The Court directs the parties to become  
19 familiar with Orr v. Bank of America, NT & SA, 285 F.3d 764 (9th  
20 Cir. 2002).

21       a. Statements of Undisputed Facts and Genuine Disputes.  
22 The moving party's brief shall be accompanied by a Statement of  
23 Undisputed Facts ("SUF"). The SUF shall be presented in a table  
24 format and include the following columns:

- 25               i. The first column shall contain the number of  
26               the fact alleged to be undisputed.

- 1           ii. The second column shall contain a plain  
2           statement of the fact. **Facts shall not be**  
3           **compound.** If, for instance, the required  
4           response is that the fact is disputed in part,  
5           the fact is compound. Further, neither legal  
6           arguments nor conclusions constitute facts.
- 7           iii. The third column shall contain a citation to  
8           admissible evidence the party believes supports  
9           the proffered fact.

10       For example:

11   Pl.'s 12   SUF No.	Fact	Supporting Evidence
13   1.	Plaintiff was driving her 14   car when she went through the intersection.	Decl. of Plaintiff ¶ 2.
15   2.	The light was green when 16   Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.
17   3.	Plaintiff was driving at 35 18   miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Decl. of Plaintiff's Expert ¶ 14.
19   .	.	.

20       The party opposing the summary judgment motion shall include  
21       with its opposition a Statement of Genuine Disputes of Material  
22       Fact that includes the moving party's table; but the opposing party  
23       shall add a fourth column to the moving party's table identifying  
24       those facts that are in dispute, briefly explaining the dispute,  
25       and citing the evidence supporting the dispute. The opposing party  
26       shall not set forth legal or evidentiary objections in the  
27       statement of genuine disputes of material fact. For example:  
28

Pl.'s SUF No.	Fact	Supporting Evidence	Def.'s Response
1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶ 2.	Undisputed.
2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.	Disputed. The light was red when Plaintiff traveled through the intersection. (Decl. of Defendant ¶ 6.)
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Dec. of Plaintiff's Expert ¶ 14.	Disputed. Plaintiff was driving 52 miles per hour when she went through the intersection. (Decl. of Defendant's Expert ¶ 9.)
. . .	. . .	. . .	. . .

If a party fails to dispute a fact properly by offering evidence that does not contradict the proffered fact, the Court will deem the fact undisputed for purposes of the motion. See Fed. R. Civ. P. 56(e)(2), L.R. 56-3.

If the party opposing the summary judgment motion wishes to include its own set of undisputed facts, it may include them in a second table at the end of its statement of genuine disputes of material fact. The opposing party's undisputed facts shall be set forth in the same manner as the moving party's SUF. For example:

Def.'s SUF No.	Fact	Supporting Evidence
1.	The tires on Plaintiff's car had only 1 millimeter of tread remaining at the time of the accident.	Decl. of Mechanic ¶ 5.
. . .	. . .	. . .

If either party fails to provide a pincite to the supporting evidence, the Court will deem the proffered fact (or dispute) unsupported. See generally Christian Legal Soc. v. Wu, 626 F.3d 483, 488 (9th Cir. 2010) ("Judges are not like pigs, hunting for truffles buried in briefs." (quoting Greenwood v. FAA, 28 F.3d 971, 977 (9th Cir. 1994) (quoting United States v. Dunkel, 927 F.2d 955, 956 (7th Cir. 1991) (per curiam)) (alteration omitted)))).

b. Objections to Evidence. Parties shall file any legal objections to the other party's proffered evidence under separate cover. The evidentiary objections should be presented in a three-column format and include the following columns:

- i. The first column shall contain the number of the fact objected to, using the numbering submitted in the moving party's SUF if applicable.
- ii. The second column shall identify the item objected to, including its page and line number if applicable.
- iii. The third column shall set forth a concise objection (e.g., hearsay, lacks foundation,

etc.) with a citation to the Federal Rules of Evidence or, where applicable, a case citation.

For example:

Fact No.	Fact	Objection
3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection. (Decl. of Plaintiff ¶ 7; Decl. of Plaintiff's Expert ¶ 14)	Irrelevant. F.R.E. 402.
. . .	. . .	. . .

**13. Ex Parte Applications.** *Ex parte* applications are considered on the papers and are not usually set for hearing. Counsel are advised that this Court allows *ex parte* applications solely for extraordinary relief. Sanctions may be imposed for misuse of *ex parte* applications. See In re Intermagnetics Am., Inc., 101 B.R. 191 (Bankr. C.D. Cal. 1989). Counsel also should become familiar with Mission Power Engineering Co. v. Continental Casualty Co., 883 F. Supp. 488 (C.D. Cal. 1995), regarding *ex parte* applications.

Counsel's attention is directed to L.R. 7-19. The moving party's declaration in support of an *ex parte* application shall show compliance with L.R. 7-19 and this Order and shall include a statement of opposing counsel's position. Failure to do so ensures the application will be DENIED. If counsel does not intend to oppose an *ex parte* application, counsel must inform the Courtroom Deputy Clerk, (951) 328-2254. As with all motion papers, counsel must deliver a conformed courtesy copy of the papers to the "Courtesy Box", located outside of Courtroom 1 on the 2nd floor at

1 United States District Court, 3470 Twelfth Street, Riverside,  
2 California 92501. Counsel will be notified by the Courtroom Deputy  
3 Clerk of the Court's ruling or of a hearing time and date should  
4 the Court determine that a hearing is necessary.

5  
6 **14. Stipulations.** Stipulations extending scheduling dates  
7 set by this Court are not effective unless approved by the Court.  
8 Continuances will be granted only upon a showing of good cause.

9  
10 **15. Communications with Chambers.** Unless requested to do so,  
11 counsel shall not attempt to contact the Court or its staff by  
12 telephone or by any other *ex parte* means. Counsel are directed to  
13 review the Central District's website at  
14 <http://www.cacd.uscourts.gov> for the Local Rules, filing  
15 procedures, judges' procedures and schedules, calendars, forms, and  
16 Pacer access. Counsel may contact the Courtroom Deputy Clerk,  
17 Maynor Galvez, by telephone at (951) 328-2254 or by email at  
18 [maynor\\_galvez@cacd.uscourts.gov](mailto:maynor_galvez@cacd.uscourts.gov) only in the event that counsel  
19 cannot find the desired information through all available  
20 resources.

21  
22 **16. Telephonic Appearances.** Telephonic appearances will only  
23 be allowed upon good cause. To request a telephonic appearance  
24 counsel must file a request with a proposed order one week before  
25 the scheduling conference.



1 \* Copies of the Local Rules are available on our website  
2 at "http://www.cacd.uscourts.gov" or they may be  
purchased from one of the following:

3 Los Angeles Daily Journal  
4 915 East 1st Street  
Los Angeles, California 90012

5 West Publishing Company  
6 610 Opperman Drive  
Post Office Box 64526  
7 St. Paul, Minnesota 55164-0526

8 Metropolitan News  
210 South Spring Street  
9 Los Angeles, California 90012

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