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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).  
 28

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.

28

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  
 18 subject event pursuant to the provisions set forth in this  
 19 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

39. Further, section 5.12.080 requires a person to apply for a special event permit 30 days prior to the event and specify, in the application, the nature of the event for which the permit is sought.

40. Section 5.12.082 requires a person to pay a special event permit application fee, which the City has currently set at \$252.

41. Under section 5.12.083, an applicant may be required to pay “the estimated cost of any public services or equipment the city manager or designee determines is necessary to monitor, administer or control any activities associated with the special event.”

42. Under Ordinance No. 1138, there is no way for a person to seek a waiver of fees related to a special event or to appeal the denial of her application for a special event permit.

43. Under Ordinance No. 1138, the City may issue citations, infractions, penalties, and thousands of dollars in fines for violations of the revised Chapter 5.12.

44. Under section 5.12.285, added by Ordinance No. 1138, if a property owner fails to obtain a required special event permit and a complaint is made about her gathering, the City may impose a \$5,000 fine. For subsequent offenses, the City may impose a \$10,000 fine.

45. Section 5.12.285 permits additional fines as follows: “If the complaint regarding the condition, operation, or conduct of an unpermitted special event is not corrected within one hour of initial contact and issuance of citation, the city may



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.

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

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

## COMPLAINT

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 *Prayer for Relief*

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

- 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