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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14

15 JULIE WALTZ,

16 Plaintiff,

17 v.

18 LILLIANITA T. BRUMFIELD, in her  
individual and official capacities;  
19 BELINDA BROWN, in her official  
capacity; PAUL RAMSEY, in his  
20 official capacity; PHYLLIS CHENG,  
in her official capacity; and  
21 DOES 1 through 10, inclusive, in their  
individual capacities,  
22

23 Defendants.  
24  
25  
26  
27  
28

CASE NO.

**COMPLAINT FOR VIOLATION  
OF FIRST AMENDMENT TO  
UNITED STATES CONSTITUTION  
PURSUANT TO 42 U.S.C. § 1983**

1 Nature of the Action

2 1. This is an action for damages, injunctive relief, and declaratory relief  
3 to remedy violations of plaintiff's rights under the First Amendment to the United  
4 States Constitution. This action is brought pursuant to 42 U.S.C. § 1983, and the  
5 Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1343. All  
6 allegations in this complaint are made on information and belief, except as to events  
7 in which plaintiff was personally involved.

8 2. Defendant Lillianita T. Brumfield intentionally harassed and  
9 investigated plaintiff solely because of plaintiff's exercise of her rights of free  
10 speech, petition, and association under the First Amendment in opposition to  
11 government policies regarding the placement of sex offenders and other individuals  
12 with a history of behavioral problems in residential group homes. These wrongful  
13 acts were undertaken pursuant to a policy or custom of the California Department  
14 of Fair Employment and Housing ("DFEH"), which is indifferent to, permits,  
15 condones, and/or directs such activities. That policy or custom persists and  
16 continues to threaten First Amendment freedoms. Defendants are responsible for  
17 developing, implementing, carrying out, and overseeing said policy or custom.  
18 Declaratory and injunctive relief to halt said policy or custom is required to  
19 preserve plaintiff's First Amendment rights.

20 Plaintiff

21 3. Julie Waltz is, and at all times relevant to this matter was, a resident of  
22 Broken Arrow Street in Norco, California, and has been the target of an  
23 investigation by DFEH. She continues to engage in activities, or wishes to engage  
24 in activities, protected by the First Amendment, but which are threatened by  
25 practices of DFEH and defendants amounting to a system of informal regulation of  
26 political speech.

27 Defendants

28 4. DFEH is an agency within the California state government and is part

1 of the State and Consumer Services Agency.

2 5. Lillianita T. Brumfield is a consultant and/or investigator at DFEH.  
3 She is sued in both her individual and official capacities.

4 6. Belinda Brown is a District Administrator of DFEH. She is sued in  
5 her official capacity.

6 7. Paul Ramsey is the chief counsel of DFEH. He is sued in his official  
7 capacity.

8 8. Phyllis Cheng is the Director of DFEH. She is sued in her official  
9 capacity.

10 9. The true names and capacities of defendants Does 1 through 10,  
11 inclusive, are unknown to plaintiff, who therefore sues these defendants by such  
12 fictitious names. Plaintiff is informed and believes, and on that basis alleges, that  
13 each of the fictitiously named defendants is responsible in some manner for the  
14 events alleged in this Complaint and proximately caused damages to plaintiff.  
15 Plaintiff is unable to ascertain the true names of Does 1 through 10 because she was  
16 not privy to all conduct committed in connection with DFEH's investigation of her.  
17 Plaintiff will seek leave of court to amend this Complaint to allege such names and  
18 capacities as soon as they are ascertained.

19 Venue

20 10. Venue in this Court is proper under 28 U.S.C. § 1391 and this Court  
21 has personal jurisdiction over the defendants because the events giving rise to this  
22 claim occurred in this district.

23 DFEH's Statutory Authority

24 11. Under the California Fair Employment and Housing Act ("FEHA"),  
25 DFEH is authorized to investigate complaints which allege violations of the FEHA.  
26 Under the FEHA provision authorizing such investigations, DFEH shall complete  
27 an investigation within 100 days after the filing of the complaint unless it is  
28 impracticable to do so. DFEH must provide a statement of written reasons if it is

1 unable to complete the investigation within the time period specified.

2 12. In the course of this investigation, DFEH may issue subpoenas,  
3 administer oaths, examine witnesses under oath, and take evidence, depositions and  
4 affidavits. DFEH may also issue written interrogatories, request the production of,  
5 for inspection and copying, books, records, documents, and physical materials, and  
6 petition the California superior courts to compel the appearance and testimony of  
7 witnesses, the production of books, records, documents, and physical materials, and  
8 the answering of interrogatories. Failure to obey a subpoena can result in contempt  
9 proceedings, substantial monetary fines, and imprisonment.

10 13. If, after its investigation, DFEH determines that a discriminatory  
11 housing practice has occurred, it may issue a written accusation and prosecute the  
12 accusation before the Fair Employment and Housing Commission (FEHC). FEHC  
13 can order penalties, damages, and injunctive relief.

#### 14 Factual Background

##### 15 A. Plaintiff's Opposition To The Broken Arrow Home

16 14. For a number of years, plaintiff has posted signs in her yard and  
17 engaged in other forms of peaceful protest and public debate in opposition to  
18 various government policies. Plaintiff's speech has focused largely on government  
19 regulations and financial support regarding the placement of sex offenders and  
20 people with other behavioral problems in group homes located in residential  
21 neighborhoods. Plaintiff has also been a vocal proponent of Jessica's Law, a ballot  
22 initiative aimed at reforming the laws related to the punishment and monitoring of  
23 sex offenders.

24 15. In 2004, plaintiff first posted signs in her yard regarding government  
25 policies related to the placement of sex offenders in residential group homes. At  
26 the time, the Inland Regional Center was attempting to open group homes in  
27 residential neighborhoods in Norco, California for individuals with certain  
28 behavioral problems, and plaintiff was concerned that the plans could endanger the

1 safety of the neighborhoods. The Inland Regional Center is a private corporation  
2 that contracts with the California Department of Developmental Services to provide  
3 services in San Bernardino and Riverside counties for individuals who have a  
4 history of behavioral problems.

5 16. In approximately late 2004 or early 2005, Ace Atkinson, who works  
6 for the State Council on Developmental Disabilities, which is part of the California  
7 state government, came to plaintiff's home and told her that she needed to take  
8 down the signs on her property and that she could be sued if she did not take them  
9 down.

10 17. In 2004, Plaintiff was an active and vocal critic of government policies  
11 related to a proposal to house registered sex offenders at a group home in Phelan,  
12 California.

13 18. On September 30, 2005, the state of California licensed the Broken  
14 Arrow Home, located on 2984 Broken Arrow Street in Norco, California, as an  
15 Adult Residential Facility to serve “[i]ndividuals displaying behaviors, including  
16 but not limited to, property destruction, temper tantrums, self abuse, physical  
17 aggression, suicidal ideation, AWOL, fire setting, and sexual inappropriateness.”  
18 The Broken Arrow Home received funds from the state of California to open in  
19 2005, and it is owned by the California Housing Foundation, which is a part of the  
20 Inland Regional Center.

21 19. Plaintiff lives next door to the Broken Arrow Home. Ever since the  
22 Broken Arrow Home became licensed by the State of California, plaintiff has  
23 posted signs in her yard opposing government policies generally, including as they  
24 relate to the Broken Arrow Home.

25 20. Plaintiff has attended and spoken at various public meetings  
26 throughout California, including city council meetings in Norco, related to the  
27 potential risks of housing sex offenders at the Broken Arrow Home and similar  
28 residential settings. Plaintiff has also written letters to the local media and

1 government officials addressing these issues.

2 21. All of plaintiff's activities expressing opposition to the Broken Arrow  
3 Home were protected by the First Amendment to the United States Constitution. In  
4 the investigation by DFEH and defendants described below, plaintiff was accused  
5 only of engaging in such protected activities, and was never accused by said  
6 defendants of engaging in any specific activities outside the protection of the First  
7 Amendment.

8 B. Defendants' Investigation, Threats Of Prosecution, And Use Of The Media

9 22. On or about September 18, 2006, Deborah Joseph filed a complaint  
10 with DFEH. Ms. Joseph was the owner and director of Supporting Unlimited  
11 Possibilities, Inc., the corporation seeking to operate the Broken Arrow Home  
12 following its licensure by the state of California. The complaint alleged that  
13 plaintiff had subjected unspecified residents of the Broken Arrow Home to  
14 "harassment which was based on their disability status" and that the harassment  
15 "was of a verbal, visual and physical nature" and "created a hostile and offensive  
16 atmosphere and violated our mission to provide a discrimination free living  
17 environment for our disabled residents."

18 23. On or about September 18, 2006, attorney Richard P. Koch filed a  
19 substantially similar complaint on behalf of Bernice Hernandez, a resident of the  
20 Broken Arrow Home, alleging that plaintiff had "created a hostile and offensive  
21 atmosphere environment" [sic] and subjected Ms. Hernandez to "harassment ...  
22 based on [her] disability status [that] was of a verbal, visual and physical nature."

23 24. The complaints filed by Ms. Joseph and Ms. Hernandez each alleged  
24 that plaintiff had violated sections 12955(a) and 12955.7 of the California  
25 Government Code, but neither complaint alleged any specific facts constituting a  
26 violation of the FEHA or any other law or regulation the enforcement of which has  
27 been delegated to DFEH. Nor did either complaint allege any specific facts  
28 showing that plaintiff had done anything to threaten the safety of anyone.

1           25.    On or about September 18, 2006, DFEH sent a letter to plaintiff  
2 notifying her that Bernice Hernandez had filed a complaint against her, and  
3 requesting that she “respond immediately, in detail, to all of the allegations in the  
4 enclosed complaint and to submit any documentary evidence you may have to  
5 support your position.” The September 18, 2006 letter further stated that “[i]f you  
6 wish to file a written statement of your position, you must do so within twenty (20)  
7 days of receipt of this notice.” The letter asserted that the “specifics” of what  
8 plaintiff had allegedly done to “discriminate[] against the complaint party or parties  
9 in providing equal access to housing” were “detailed in the complaint.” The letter  
10 further notified plaintiff that she was “required to file your address with DFEH  
11 within twenty (20) days of this notice” and “required to notify DFEH in writing of  
12 any pending change of address and the effective date of such change, while the  
13 complaint is under investigation and throughout any administrative adjudication.”  
14 The letter also “encourage[d]” plaintiff “to contact the assigned consultant (listed  
15 below) immediately to avoid any unnecessary delay and the possible accrual of  
16 liability.”

17           26.    The September 18, 2006 letter also contained a Supplement to Notice  
18 of Filing of Discrimination Complaint, requesting that plaintiff provide various  
19 detailed types of information about her “business” and housing units that she rented  
20 to the public, and requesting that she “respond, in detail, to each allegation in the  
21 complaint, and to supply all statements or documents which, in your opinion, will  
22 assist us in determining the merits of this complaint.” The document also requested  
23 that plaintiff “contact the assigned consultant prior to submitting the data.”

24           27.    On or about September 19, 2006, DFEH sent a second letter to  
25 plaintiff notifying her that Deborah Joseph had filed a complaint against her. The  
26 September 19 letter was similar to the September 18 letter, requesting that plaintiff  
27 provide various types of information, statements, documents, and detailed written  
28 responses “immediately,” and making clear that she “must do so within twenty (20)

1 days.”

2 28. Shortly after receiving the September 18 and 19, 2006 letters from the  
3 DFEH, plaintiff spoke on the telephone with Lillianita Brumfield, the DFEH  
4 Consultant who sent the two letters and was assigned to the complaints filed against  
5 plaintiff. Plaintiff discussed the signs that she had posted in her yard with Ms.  
6 Brumfield, and explained that she had posted the signs in protest against  
7 government policies. Ms. Brumfield told Plaintiff that the DFEH investigations  
8 would stop if Plaintiff removed the signs from her yard as well as similar signs  
9 posted by other people in her neighborhood. Plaintiff did not agree to remove the  
10 signs. Ms. Brumfield stated that plaintiff would need to submit a written response  
11 to each allegation asserted against her in the complaints, providing her account of  
12 what had happened and the names of individuals who she felt could be witnesses on  
13 her behalf.

14 29. On or about October 12, 2006, plaintiff provided DFEH with a written  
15 response to the two complaints. In her response, plaintiff made clear that she had  
16 “never rented to anyone at any time.” Plaintiff’s response asserted her belief that  
17 the complaints were “based in my exercise of my constitutional right to protest” and  
18 stated that “I have signs in my yard that the complaining person wants me to  
19 remove.” Plaintiff stated that she had discussed the complaints with Lillianita  
20 Brumfield (the DFEH consultant assigned to her cases), and that Ms. Brumfield had  
21 told her “she knew this was not about housing it was about the signs in my yard  
22 expressing my beliefs and the fact that I called police when the next door neighbors  
23 were disturbing the peace by yelling and fighting in the street.” Plaintiff’s written  
24 responses further stated that Ms. Brumfield “told me if I did not remove my signs  
25 she would prosecute me for harassment.”

26 30. On or about January 8, 2007, DFEH District Administrator Belinda  
27 Brown sent two letters to plaintiff regarding DFEH’s investigations of the  
28 complaints filed by Ms. Joseph and on behalf of Hernandez. The letters advised



1 plaintiff that the investigations of the two complaints had “not been completed  
2 within 100 days from the filing of the complaint[s] nor has an accusation been  
3 issued within this time.” The letters further stated that “[c]ompletion of the  
4 investigation or issuance of an accusation within 100 days was impracticable  
5 because there was a need to ... [c]omplete interviews with parties and/or witnesses  
6 [and] ... [c]onduct an on-site investigation.” The letters informed plaintiff that “the  
7 projected date for completion of the investigation of this case is July 2007.” The  
8 letters advised Plaintiff to contact Ms. Brumfield, the investigator assigned to her  
9 case, if she wanted “additional information about the reasons why completion of the  
10 investigation within 100 days was impracticable.”

11 31. In approximately July 2007, DFEH consultant Lillianita Brumfield  
12 called plaintiff and invited her to a mediation to attempt to resolve the complaints  
13 that were filed against her. Plaintiff stated that she was not interested in a  
14 mediation at that time, and Ms. Brumfield responded that DFEH would continue its  
15 investigation.

16 32. During the course of defendants’ review of plaintiff’s activities,  
17 defendant Brumfield and one or more of the Doe defendants conspired with one  
18 another to deprive plaintiff of her First Amendment rights by, inter alia, taking the  
19 steps described herein. Such steps included extending the investigation beyond all  
20 reasonable lengths, informing plaintiff that her speech activities violated the FEHA,  
21 requesting that plaintiff refrain from her speech activities, threatening plaintiff with  
22 prosecution under FEHA, and using the public media to characterize plaintiff as a  
23 discriminator and violator of the FEHA.

24 33. Defendant Brumfield made clear to plaintiff that DFEH’s investigation  
25 of, and threats of prosecution against, her was based upon her having posted signs  
26 in her yard, associated with neighbors in political advocacy, communicated with  
27 police officers, and engaged in other activities protected by the First Amendment.  
28 Plaintiff was accordingly chilled in her exercise of such activities.

1           34. During the course of defendants' review of plaintiff's political activity,  
2 defendant Brumfield informed plaintiff that DFEH's continuing investigation was  
3 based on the alleged fact that plaintiff displayed signs in her yard that referred to  
4 the nature of the disabilities of people authorized to be placed in the Broken Arrow  
5 Home and that she engaged in speech that rose to the level of threats. One or more  
6 of the defendants sued in their individual capacities threatened plaintiff with  
7 prosecution, pursuant to DFEH's authority under the FEHA, based upon these  
8 alleged activities. (At no time during their review of plaintiff's activities did  
9 defendants have evidence that plaintiff had engaged in any speech constituting  
10 threats.)

11           35. During the course of defendants' investigation, and to enhance their  
12 threats of prosecution, one or more of the defendants sued in their individual  
13 capacities informed members of the media that plaintiff may have violated the  
14 FEHA and may be subject to prosecution thereunder. Various reports of these  
15 purported violations subsequently appeared in area newspapers.

16           36. Despite the fact that the initial complaint against plaintiff, and  
17 defendants' initial investigation, both demonstrated that all of plaintiff's activities  
18 in opposition to government policies related to the Broken Arrow Home and similar  
19 projects were protected by the First Amendment, one or more of the defendants  
20 sued in their individual capacities continued to investigate plaintiff, threaten  
21 prosecution under the FEHA, and use the public media to malign plaintiff for nearly  
22 a year.

23           37. During the investigation, in an effort to bully plaintiff into  
24 surrendering her First Amendment rights to oppose government policies related to  
25 the Broken Arrow Home and similar projects, defendant Brumfield stated that  
26 defendants would end their investigation, and would not follow through on their  
27 threats of prosecution under the FEHA, if plaintiff agreed to remove the signs in her  
28 yard, and cause the removal of other signs throughout her neighborhood, discussing

1 the government policies at issue.

2 38. On or about September 5, 2007, nearly a year after the DFEH began  
3 investigating plaintiff, DFEH District Administrator Belinda Brown sent Notices of  
4 Case Closure to the two people who had filed complaints against plaintiff, advising  
5 them that DFEH was closing the case effective September 5, 2007, because it was  
6 “unable to conclude that the information obtained establishes a violation of the  
7 statute” although it did “not certify that [plaintiff] is in compliance with the  
8 statutes.” The letter advised the complainants that they had a right to file a civil  
9 action against plaintiff.

10 39. As a consequence of defendants’ actions, the movement opposing  
11 government sponsorship of the Broken Arrow Home and similar projects, of which  
12 plaintiff was an active member, lost adherents and was unable to gain new  
13 supporters. These adherents and potential supporters were unwilling to risk being  
14 the subject of a DFEH prosecution for opposing government policies.  
15 Consequently, plaintiff and her allies were unable to achieve their political goals,  
16 and the government policies and funding at issue could not be halted. Ultimately,  
17 defendants’ actions undermined plaintiff and her allies as an effective political  
18 organization.

19 40. Defendants’ overlong investigation, threats of prosecution under the  
20 FEHA, and use of public media to malign plaintiff constituted an informal means of  
21 censoring speech in opposition to government sponsorship of the Broken Arrow  
22 Home and similar projects.

23 41. Each of the defendants sued in their individual capacities conspired  
24 with one another to deprive plaintiff of her First Amendment rights, and each of  
25 them agreed to engage in, and/or engaged in, the overt acts described above in  
26 furtherance of that conspiracy. Each of them thus violated plaintiff’s clear and well  
27 established rights under the First Amendment to the United States Constitution.  
28 Defendants’ activities, under the color of state authority, chilled plaintiff’s exercise

1 of her First Amendment rights.

2 42. Each of the defendants sued in their individual capacities deliberately  
3 and willfully attempted to chill plaintiff's and others' clear and well-established  
4 First Amendment rights by creating, in essence, an informal system of censoring  
5 speech through an abuse of the statutory powers available to DFEH.

6 43. Each of defendants sued in their individual capacities engaged in  
7 conduct that was either motivated by evil motive or intent or involved reckless or  
8 callous indifference to plaintiff's First Amendment rights.

9 44. Plaintiff was injured as a consequence of the actions of the defendants  
10 sued in their individual capacities, in that her First Amendment freedoms were  
11 violated, she was forced to make unnecessary expenditures of money in opposing  
12 defendants' unconstitutional investigation, and in preparation for prosecution under  
13 the FEHA threatened by defendants, and she lost supporters and was unable to  
14 achieve her political goals. Plaintiff also suffered emotional distress, pain and  
15 suffering, loss of capacity for the enjoyment of life, humiliation, embarrassment,  
16 and injury to reputation. The precise amount of plaintiff's damages will be  
17 determined at trial.

18 C. Concurrent Proceedings Involving U.S. Department Of Housing And Urban  
19 Development

20 45. On or about October 12, 2006, the U.S. Department of Housing and  
21 Urban Development (HUD) sent two letters to plaintiff notifying her that housing  
22 discrimination complaints had been filed against her, pursuant to the Fair Housing  
23 Act, 42 U.S.C. 3601-3620, by Bernice Hernandez and the Broken Arrow Home on  
24 October 12, 2006, and that the complaints had been accepted for processing. The  
25 letters further stated that, pursuant to Section 810(f) of the Fair Housing Act, the  
26 complaints would be processed by DFEH, and that all correspondence or inquiries  
27 regarding the matters should be directed to DFEH.

28 46. On or about February 16, 2007, HUD sent to letters to plaintiff

1 regarding the complaints filed by Ms. Hernandez and the Broken Arrow Home,  
2 each of which informed her that “information which has recently been made  
3 available to us by DFEH based upon its preliminary investigation of the subject  
4 case has revealed that HUD lacks jurisdiction to pursue these allegations under the  
5 Federal Fair Housing Act. We are therefore closing our case, and will take no  
6 further action with respect to the subject allegations.” The letters added that the  
7 HUD’s determination “to close its case has no bearing on the complaint filed with  
8 DFEH, which makes its own jurisdictional decisions under the separate law of the  
9 state of California.”

10 47. On or about March 20, 2007, the Los Angeles Times published an  
11 article stating that a spokesman for HUD had acknowledged that “in order to  
12 recommend the inquiry [regarding plaintiff], it had to push aside internal guidelines  
13 that prohibit such an investigation because it infringes on the 1st Amendment.”

14 D. Plaintiff’s Continuing Fear Of DFEH Threats Against Speech

15 48. Plaintiff has been deterred, and continues to be deterred, from  
16 asserting her opinions and beliefs with respect to various political issues related to  
17 housing projects in her neighborhood and throughout California because she  
18 reasonably fears additional persecution by the defendants. Although DFEH  
19 eventually dismissed the particular complaints filed by Ms. Hernandez and Ms.  
20 Joseph, its continuing policy of chilling speech through investigation and the threat  
21 of prosecution constitutes a continuing and irreparable threat of harm, to plaintiff  
22 and others, and warrants injunctive relief.

23 49. Plaintiff wants to continue to be a vocal opponent of government  
24 housing policies, particularly with respect to the placement of government-  
25 subsidized and government-sponsored housing for at-risk people in a concentrated  
26 area in residential neighborhoods without providing adequate social services to help  
27 them reacclimate into society. When she does speak on such issues, plaintiff wants  
28 to do so, and is entitled to do so, free from the fear that she will be subjected to

1 another round of investigations, threats, and public calumny.

2 50. The State of California has other housing projects and potential  
3 housing projects which involve groups that may be considered by DFEH to be  
4 protected under the FEHA, including the mentally-handicapped. For example, the  
5 state of California has sought to place registered sex offenders at an apartment  
6 complex in Long Beach, California.

7 51. In addition, the Broken Arrow Home remains a neighborhood  
8 controversy because those in the neighborhood reasonably anticipate problems with  
9 at least some of the residents. Plaintiff has witnessed numerous disturbances  
10 caused by residents of the Broken Arrow Home, including repeated banging on  
11 windows, screaming, and physical violence directed toward police officers and  
12 caregivers. Again, plaintiff has been less than vocal than she otherwise wants to be  
13 about such problems because of her fear of DFEH persecution.

14 52. The Broken Arrow Home is only one of many subsidized housing  
15 projects in plaintiff's community, including many state-sponsored ones, that are  
16 also sources of continuing controversy. Plaintiff's desire to voice her opinion with  
17 respect to these projects was and continues to be inhibited by fear of facing another  
18 DFEH investigation like the one she faced for similar opposition with regard to the  
19 Broken Arrow Home.

20 53. Neighbors who joined plaintiff in her opposition to the Broken Arrow  
21 Home and other projects either have ended or have reduced their level of opposition  
22 to these projects as a direct result of the actions of defendants described in this  
23 complaint. This reduced support has significantly hampered, and continues to  
24 hamper, plaintiff's ability to advocate effectively for policy changes regarding  
25 government-subsidized housing in her community.

26 54. DFEH officials continue to pursue and regulate protected speech in  
27 similar cases in a fashion consistent with the manner described herein.  
28

1 FIRST CLAIM

2 55. Plaintiff repeats and realleges the allegations and averments of  
3 paragraphs 1-54 as if fully set forth herein. This claim is asserted against defendant  
4 Brumfield and Does 1 through 10, in their individual capacities.

5 56. The foregoing defendants violated plaintiff's clear and well-  
6 established rights under the First Amendment to the United States Constitution.

7 57. Plaintiff is entitled to damages in an amount to be determined at trial.

8 SECOND CLAIM

9 58. Plaintiff repeats and realleges the allegations and averments of  
10 paragraphs 1-54 as if fully set forth herein. This claim is asserted against  
11 defendants Brumfield, Brown, Ramsey, and Cheng in their official capacities.

12 59. Defendants continue to chill plaintiff's exercise of her rights under the  
13 First Amendment to the United States Constitution. In addition to the threat posed  
14 by further and additional investigations, defendants have failed to make permanent  
15 changes to their investigatory process and continue to investigate charges based  
16 solely on activity protected by the First Amendment.

17 60. Accordingly, plaintiff is entitled to an injunction preventing defendants  
18 from chilling First Amendment rights through extensive and overbroad  
19 investigations. Plaintiff is further entitled to a judgment declaring defendants'  
20 policy of engaging in such investigations unconstitutional.

21 61. An actual controversy exists between plaintiff and defendants, relating  
22 to their respective legal rights and duties, making a declaration of legal rights  
23 appropriate. Plaintiff contends that she has the right to engage in the types of  
24 activities alleged in this complaint free from being subjected to extensive  
25 investigations and threats of prosecution by DFEH, while defendants have  
26 demonstrated that they do not recognize the existence of this right.

27 62. Plaintiff has no adequate remedy at law, and unless this Court grants  
28 the injunctive and declaratory relief herein requested, plaintiff will be unable to

1 exercise her rights and will be irreparably damaged.

2 WHEREFORE, plaintiff respectfully requests judgment:

3 A. Enjoining defendants from continuing their policy of investigating  
4 activities protected by the First Amendment to the United States Constitution, and  
5 declaring that policy unconstitutional;

6 B. Awarding compensatory and punitive damages to plaintiff in an  
7 amount to be proven at trial;

8 C. Granting attorneys' fees and costs to plaintiff under 42 U.S.C. §  
9 1988(b), or any other applicable authority; and

10 D. Granting such other relief as the Court deems appropriate.

11

12 DATED: April 1, 2008

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