

Michelle Marchetta Kenyon (SBN 127969)  
E-mail: mkenyon@bwslaw.com  
J. Leah Castella (SBN 205990)  
E-mail: lcastella@bwslaw.com  
Kevin D. Siegel (SBN 194787)  
E-mail: ksiegel@bwslaw.com  
Keiko J. Kojima (SBN 206595)  
E-mail: kkojima@bwslaw.com  
BURKE, WILLIAMS & SORENSEN, LLP  
1901 Harrison Street, Suite 900  
Oakland, CA 94612-3501  
Tel: 510.273.8780 Fax: 510.839.9104

Attorneys for Defendant  
CITY OF PACIFICA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SEAN GEARY, LINDA MILES,  
JARED CARR, HARRY BODE,  
STEPHEN SANDERS, and all others  
similarly situated,

Plaintiffs,

v.

CITY OF PACIFICA,

Defendant.

Case No. 3:21-cv-01780-VC

*Assigned for All Purposes to the  
Honorable Vince Chhabria*

**STIPULATION AND [~~PROPOSED~~]  
PRELIMINARY INJUNCTION**

Action Filed: March 15, 2021

Plaintiffs Sean Geary, Linda Miles, Jared Carr, Harry Bode, Stephen Sanders (“Plaintiffs”) and Defendant City of Pacifica (“City”) (collectively, the “Parties”), by and through their respective attorneys, hereby stipulate and agree as follows:

## RECITALS

WHEREAS on March 15, 2021, Plaintiffs filed a Class Action Complaint seeking, inter alia, declaratory and injunctive relief declaring unenforceable certain ordinances, including an ordinance that has been referred to as the “Oversized Vehicle Ordinance,” and directing the City to cease all efforts to enforce the same. [Doc. 1]

WHEREAS on March 30, 2021, Plaintiffs filed a Motion for Preliminary Injunction seeking an “injunction pending the outcome of trial in this case enjoining the City of Pacifica from enforcing its ban on oversized vehicle parking: Pacifica Ordinance 855 C.S., and associated changes and additions to Pacifica Municipal Code §§ 4-7.1204 and 4-7.1205.” [Doc. 19, p. 31 of 31]

WHEREAS following briefing by the Parties, the Court held the hearing on the Motion for Preliminary Injunction on May 27, 2021. The Court also conducted a site visit to view the locations where the City maintains oversized vehicle (“OSV”) parking is allowed. [Doc. 43]

WHEREAS on June 3, 2021, the Court issued its Order for Evidentiary Hearing, stating that an evidentiary hearing for the Motion for Preliminary Injunction is needed to more fully explore certain aspects of Plaintiffs’ claims, and required at minimum, testimony from the Associate Civil Engineer Ryan Marquez and the Chief of Police Daniel Steidle. The Parties were ordered to meet and confer regarding the evidentiary hearing. [Doc. 43]

WHEREAS Plaintiffs requested and were granted the right over the City’s objection to also call City Manager Kevin Woodhouse to testify at the hearing.

WHEREAS following the Parties’ meet and confer, the Court issued its Scheduling Order on June 9, 2021, setting the evidentiary hearing on July 20, 2021 at 9:00 a.m. [Doc. 48]

WHEREAS on June 28, 2021 the City amended various provisions of the Oversized Vehicle Ordinance and adopting a resolution approving an updated list of public streets where oversized vehicle parking is prohibited.

WHEREAS on June 29, 2021, Plaintiffs took the depositions of Ryan Marquez, Chief Steidle, and Kevin Woodhouse.

WHEREAS the Parties have continued to meet and confer regarding Plaintiffs’ Motion

for Preliminary Injunction and potential avenues for resolution of this action.

WHEREAS Plaintiffs and the City have agreed, subject to the approval of the Court, to the entry of the preliminary injunction set forth herein, and have further agreed that if said preliminary injunction is issued, the evidentiary hearing may be taken off calendar.

WHEREAS in furtherance of the Parties' continuing settlement discussions, the Parties agree to a 90-day stay on discovery, and further request that the City's Motion to Dismiss be taken off calendar without prejudice and all corresponding briefing dates be vacated. [Doc.51] The Parties' agreements in this Stipulation are contingent on Plaintiffs' Motion for Preliminary Injunction being withdrawn and the Court's evidentiary hearing being taken off calendar.

**STIPULATION AND ~~[PROPOSED]~~ PRELIMINARY INJUNCTION**

Plaintiffs and the City agree that the Court may issue a preliminary injunction containing the terms set forth herein pursuant to Fed. R. Civ. P. 65:

1. The City is ordered to include a link to its interactive map of allowable OSV parking ("Map") on its OSV website page(s), to be completed within seven (7) calendar days following entry of the Court's Order granting this Stipulation. This link shall be made available as long as Pacifica Municipal Code §§ 4-7.1204 and 4-7.1205, or any similar ordinance pertaining to OSV parking ("OSV Ordinance"), remain in effect.

2. The City is ordered to include a link to a list of streets that are allowable for OSV parking ("Allowable Parking List") on its OSV website page(s), to be completed within seven (7) calendar days following entry of the Court's Order granting this Stipulation. This list shall be in a form that is substantially similar to the current list of "Roads Designated No Oversize Parking Allowed", available on the City's website at <https://www.cityofpacific.org/civicax/filebank/blobdload.aspx?t=59216.47&BlobID=18365>. The link shall be made available as long as Pacifica Municipal Code §§ 4-7.1204 and 4-7.1205, or any similar ordinance restricting OSV parking remain in effect.

3. The City is ordered to cause the Allowable Parking List, the list of prohibited streets, and a print-out containing a link to the Map (e.g. FAQ) in a form that is readable and easily understood, to be made available at both of the City public libraries and at City Hall

upon request, and is ordered to include notice of such availability on its OSV website page(s).

4. Any disputes between the Parties as to the readability of the materials prepared by the City relating to OSV Parking shall be submitted promptly for resolution by the Court.

5. Plaintiffs shall withdraw their Motion for Preliminary Injunction without prejudice.

6. The Court's evidentiary hearing on the Motion for Preliminary Injunction, set for July 20, 2021, shall be taken off calendar.

7. All discovery in this action shall be stayed for 90 days.

8. The City's Motion to Dismiss shall be taken off calendar without prejudice and all corresponding briefing dates be vacated. [Doc.51]

9. The City's agreements in Paragraphs 1 through 4 may be amended or vacated pursuant to the Parties' further agreement or by court order.

10. Plaintiffs and the City reserve all rights and defenses in this litigation.

IT IS SO STIPULATED:

Dated: July 14, 2021

BURKE, WILLIAMS & SORENSEN, LLP

By: /s/ J. Leah Castella

Michelle Marchetta Kenyon  
J. Leah Castella  
Kevin D. Siegel  
Keiko J. Kojima  
Attorneys for Defendant  
CITY OF PACIFICA

Dated: July 14, 2021

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN  
CALIFORNIA

By: /s/ Grayce Zelphin

Grayce Zelphin  
Brandon Greene  
William S. Freeman  
Attorneys for Plaintiffs

Dated: July 14, 2021

DISABILITY RIGHTS ADVOCATES

By: /s/ Thomas Zito

Thomas Zito  
Sean Betouliere  
Shira Tevah  
Attorneys for Plaintiffs

Dated: July 14, 2021

LEGAL AID SOCIETY OF SAN MATEO  
COUNTY

By: /s/ Shirley Gibson

Shirley Gibson  
Ashley Luo  
Attorneys for Plaintiffs

Upon the stipulation of the parties, and good cause appearing, **IT IS SO ORDERED.**

Dated: July 14, 2021



---

HON. VINCE CHHABRIA  
UNITED STATES DISTRICT JUDGE

**PROOF OF SERVICE**

I, Laura A. Montalvo, declare:

I am a citizen of the United States and employed in Alameda County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1901 Harrison Street, Suite 900, Oakland, California 94612-3501. On July 14, 2021, I caused to be served a copy of the within document(s):

***STIPULATION AND [PROPOSED] PRELIMINARY INJUNCTION***

- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Oakland, California addressed as set forth below.
- by placing the document(s) listed above in a sealed GSO Overnight Delivery Service envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a GSO Overnight Delivery Service agent for delivery.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Grayce Zelphin  
Brandon Greene  
William S. Freeman  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
NORTHERN CALIFORNIA  
39 Drumm Street  
San Francisco, CA 94111  
Phone: 415.293.6380  
Fax: 415.255.8437  
Email: [gzelphin@aclunc.org](mailto:gzelphin@aclunc.org);  
[bgreene@aclunc.org](mailto:bgreene@aclunc.org);  
[wfreeman@aclunc.org](mailto:wfreeman@aclunc.org)

*Attorneys for Plaintiffs*

Thomas Zito  
Sean Betouliere  
Shira Tevah  
DISABILITY RIGHTS  
ADVOCATES  
2001 Center Street, 4<sup>th</sup> Floor  
Berkeley, CA 94704-1204  
Phone: 510.665.8644  
Fax: 510.665.8511  
Email: [tzito@dralegal.org](mailto:tzito@dralegal.org);  
[sbetouliere@dralegal.org](mailto:sbetouliere@dralegal.org);  
[stevah@dralegal.org](mailto:stevah@dralegal.org)

*Attorneys for Plaintiffs*

Shirley Gibson  
Ashley Luo  
LEGAL AID SOCIETY OF SAN  
MATEO COUNTY  
Sobrato Center for Nonprofits  
330 Twin Dolphin Drive, Suite 123  
Redwood City, CA 94065  
Phone: 650.558.0915  
Fax: 650.517.8973  
Email: [sgibson@legalaidsmc.org](mailto:sgibson@legalaidsmc.org);  
[aluo@legalaidsmc.org](mailto:aluo@legalaidsmc.org);

*Attorneys for Plaintiffs*

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on July 14, 2021, at Brentwood, California.

  
\_\_\_\_\_  
Laura A. Montalvo