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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA
13 SACRAMENTO DIVISION

14 SACRAMENTO HOMELESS ORGANIZING
15 COMMITTEE, et al.,

16 Plaintiffs,

17 vs.

18 COUNTY OF SACRAMENTO, et al.,

19 Defendants.

Case No. 2:14-cv-01684-TLN-KJN

**DECLARATION OF PAUL H. MASUHARA
IN SUPPORT OF PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO MOTION
FOR PRELIMINARY INJUNCTION**

DATE: August 28, 2014
TIME: 2:00 p.m.
COURTROOM: 2 (15th Floor)
JUDGE: Hon. Troy L. Nunley

20 I, Paul H. Masuhara, do declare and say:

21 1. I am an associate attorney at the Law Office of Mark E. Merin. I am licensed to practice in
22 the State of California and admitted to practice before United States District Court for the Eastern
23 District of California. The Law Office of Mark E. Merin represents the Plaintiffs herein, in conjunction
24 with Alan L. Schlosser of the American Civil Liberties Union Foundation of Northern California.

25 2. The Sacramento County Board of Supervisors ("BOS") maintains public meetings'
26 minutes, agendas and video on its publicly-accessible official website. *See*

27 <http://www.agendanet.saccounty.net/sirepub/meetresults.aspx> (last accessed on August 21, 2014).

28 3. A true and correct copy of certified excerpts of the administrative record for the BOS

1 public meeting occurring on April 22, 2014, are attached hereto as “Exhibit A.”

2 4. Sacramento County Ordinance No. 1559, codified as Sacramento County Code sections
3 9.81.010 through 9.81.070 (the “ordinance”), was initially introduced at the BOS public meeting
4 occurring on April 22, 2014, and a full reading of the ordinance was waived and continued to May 13,
5 2014, for adoption. Recorded video footage of the BOS public meeting occurring on April 22, 2014 can
6 be accessed and viewed on the BOS official website at the following location:

7 <http://www.agendanet.saccounty.net/sirepub/mtgviewer.aspx?meetid=11377&doctype=SUMMARY>

8 (last accessed on August 21, 2014).

9 5. During the April 22, 2014 BOS public meeting, the following conversation occurred
10 between Melinda Eppler, who identified herself as the executive director of the Fulton Avenue
11 Association, and BOS member Susan Peters.

12 EPPLER: I’m a little bit concerned about the term “solicitor” versus “panhandler,” because I’ve
13 heard both here today and I’ve seen both in the verbiage, and I think the ordinance is really well-
14 written, but at some of these establishments there are solicitors that are not necessarily endorsed
15 by—say—Trader Joe’s, but if they’re representatives of Greenpeace, for example, they’re not a
16 person asking for a hand-out. So, I think that there needs to be some delineation between
17 “solicitor” versus “panhandler,” because I think there is a difference.

18 PETERS: So, we don’t want to arrest the Girl Scouts (overlapping)

19 EPPLER: Correct.

20 PETERS: (Overlapping) selling cookies?

21 EPPLER: I don’t think that that would be a good idea. Girl Scouts, Greenpeace—and, you know,
22 as we all know, we can choose to say “no” to Greenpeace, if we wish, or with Girls Scouts, or
23 what have you, but it’s easier to say “no” to someone that you think is just reaching out for a
24 dollar to get a beer or whatever it is that they’re reaching out to get.

25 (Exhibit A, page 2.) This conversation occurs between 04:18:00 and 04:19:05 on the above-linked video.

26 6. Later, during the same BOS public meeting occurring on April 22, 2014, the following
27 conversation occurred between BOS member Susan Peters and Sacramento County Counsel John F.
28 Whisenhunt.

PETERS: Can I ask the County Counsel, or Captain Morgan, on the definitions here, item “N,”
where the solicit—so we can get the—kind of—the girl scout versus the intrusive panhandler?

WHISENHUNT: Well the—I think the response—I mean, we talk—“panhandling” is specifically
identified in the definition. But, if you look at 9.81.050, there are exemptions from the

1 prohibitions—

2 PETERS: Oh. Ok.

3 WHISENHUNT: (Overlapping) that I think cover those types of activities.

4 PETERS: Ok.

5 (Exhibit A, page 3.) This conversation occurs between 04:30:30 and 04:31:10 on the above-linked video.

6 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
7 was executed on this 21st day of August, 2014, at Sacramento, California.

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Paul H. Masuhara

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO
BOARD OF SUPERVISORS

--000--

REGULAR BOARD MEETING

DATE/TIME
April 22, 2014
9:30 AM

LOCATION
700 H Street, Suite 1450
Sacramento, California 95814

SUPERVISORS PRESENT

JIMMIE YEE, CHAIR -- DISTRICT 2
PHIL SERNA, VICE CHAIR -- DISTRICT 1
ROBERTA MacGLASHAN -- DISTRICT 4
DON NOTTOLI -- DISTRICT 5
SUSAN PETERS -- DISTRICT 3



The foregoing is a certified
copy of a transcript of a portion
of the Sacramento County Board of
Supervisors meeting held

On April 22, 2014 (Item 67)

Dated August 20, 2014

By Alorence Evans, Assistant Clerk

COUNTY OF SACRAMENTO

BOARD OF SUPERVISORS

Date/Time: April 22, 2014/9:30 AM

Page 2

[CD BEGINS AS FOLLOWS (04:18:00 – 04:19:05)]

* * *

EPPLER: I'm a little bit concerned about the term "solicitor" versus "panhandler," because I've heard both here today and I've seen both in the verbiage, and I think the ordinance is really well-written, but at some of these establishments there are solicitors that are not necessarily endorsed by let's say Trader Joe's, but if they're representatives of Greenpeace, for example, they're not a person asking for a hand-out. So, I think that there needs to be some delineation between "solicitor" versus "panhandler," because I think there is a difference.

PETERS: So, we don't want to arrest the Girl Scouts (overlapping)

EPPLER: Correct.

PETERS: (Overlapping) selling cookies?

EPPLER: I don't think that that would be a good idea. Girl Scouts, Greenpeace—and, you know, as we all know, we can choose to say "no" to Greenpeace, if we wish, or with Girls Scouts, or what have you, but it's easier to say "no" to someone that you think is just reaching out for a dollar to get a beer or whatever it is that they're reaching out to get.

COUNTY OF SACRAMENTO

BOARD OF SUPERVISORS

Date/Time: April 22, 2014/9:30 AM

Page 3

[CD BEGINS AS FOLLOWS (04:30:30 – 04:31:10)]

PETERS: Could I ask the County Counsel, or Captain Morgan, on the definitions here, item “N,” where the solicit—so we can get the—kind of—the girl scout versus the intrusive panhandler?

WHISENHUNT: Well the—I think the response—I mean, we talk—“panhandling” is specifically identified in the definition. But, if you look at 9.81.050, there are exemptions from the prohibitions—

PETERS: Oh. Ok.

WHISENHUNT: (Overlapping) that I think cover those types of activities.

PETERS: Ok.

ADMINISTRATIVE RECORD CERTIFICATION

Introduce The Ordinance To Amend Sacramento County Code Relating To The Prohibition Of Aggressive And Intrusive Solicitation; Waive Full Reading Of The Ordinance And Continue To May 13, 2014 For Adoption (Sheriff) Supervisorial District(s): All

I, Florence Evans, hereby certify that I am the Assistant Clerk for the Sacramento County Board of Supervisors, and in that capacity I maintain records of the Board of Supervisors. I hereby certify that the documents submitted from the Board of Supervisors for inclusion into the Administrative Record in this action are true and accurate copies of the original documents maintained by the Board of Supervisors, or at the direction of the Board of Supervisors. These documents are kept in the ordinary course of business and, insofar as they are certified as the Administrative Record, are public records.

Date: 8/21/2014



A handwritten signature in cursive script, reading "Florence Evans", is written over a solid horizontal line.

Florence Evans, Assistant Clerk

Sacramento County Board of Supervisors