CHESSIE THACHER (SBN 296767)
cthacher@aclunc.org
ANGELICA SALCEDA (SBN 296152)
asalceda@aclunc.org
SHAILA NATHU (SBN 314203)
snathu@aclunc.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA, INC.
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PACIFIC MEDIA WORKERS GUILD; ANGEL JOSE FLORES; JULISSA RUIZ RAMIREZ; ALYSSA LEIVA; Plaintiffs, vs. CITY OF MODESTO, BRANDON GILLESPIE, in his official capacity as Modesto Chief of Police, Defendants.	CASE NO. 2:26-CV-01623-JAM-CKD **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PARTIAL REMAND TO STATE COURT** Judge: Hon. John A. Mendez Courtroom: 6, 14th Floor Date: June 30, 2026 Time: 1:00 p.m.

NOTICE OF MOTION AND MOTION FOR PARTIAL REMAND

TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE that at 1:00 pm on June 30, 2026, or as soon thereafter as this matter can be heard, in Courtroom 6 on the 14th Floor of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, CA, Plaintiffs Pacific Media Workers Guild, Angel Jose Flores, Julissa Ruiz Ramirez, and Alyssa Leiva (collectively, "Plaintiffs") will, and hereby do, move the Court pursuant to 28 U.S.C. § 1447(c) for an order of partial remand to the state court from which this case was removed.

In particular, Plaintiffs request remand of their state taxpayer claim pleaded under California Code of Civil Procedure § 526a as their Sixth Cause of Action ("the State Taxpayer Claim"). Plaintiffs originally filed their complaint in the Superior Court for the County of Stanislaus against Defendant City of Modesto and Defendant Brandon Gillespie in his official capacity as Modesto Chief of Police (collectively, "Defendants"). This particular claim should now be remanded because Plaintiffs do not have Article III standing to bring their State Taxpayer Claim in federal court, and thus this Court lacks subject matter jurisdiction to hear it.

This Motion for Partial Remand is being filed in connection with Plaintiffs' Motion for Preliminary Injunction, which Plaintiffs bring pursuant to Federal Rule of Civil Procedure 65 on the basis that they are likely to succeed on the merits of Causes of Action One through Five in their Complaint. Per this Court's Order re Filing Requirements (ECF No. 7-2), Plaintiffs' counsel did reach out to Defendants' counsel on May 1 to ascertain Defendants' position regarding the present Motion and assess their availability for a hearing. Because Defendants' lead counsel was unavailable on this Court's soonest available date (June 16), Plaintiffs agreed to notice the hearing for June 30. Counsel engaged in further productive meet and confer throughout the week of May 4, and Plaintiffs have otherwise complied with the Court's standing order.

This Motion is based on this Notice; the accompanying Memorandum of Points and Authorities; all other pleadings, files, and records in this action; any subsequent briefing or argument; and any evidence or further argument that may be requested or permitted by the Court.

Date: May 14, 2026

Respectfully Submitted,

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN CALIFORNIA, INC.

/s/ Chessie Thacher

Chessie Thacher (SBN 296767)
Angelica Salceda (SBN 296152
Shaila Nathu (SBN 314203)

Attorneys for Plaintiffs

CHESSIE THACHER (SBN 296767)
cthacher@aclunc.org
ANGELICA SALCEDA (SBN 296152)
asalceda@aclunc.org
SHAILA NATHU (SBN 314203)
snathu@aclunc.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA, INC.
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PACIFIC MEDIA WORKERS GUILD; ANGEL JOSE FLORES; JULISSA RUIZ RAMIREZ; ALYSSA LEIVA; Plaintiffs, vs. CITY OF MODESTO, BRANDON GILLESPIE, in his official capacity as Modesto Chief of Police, Defendants.	CASE NO. 2:26-CV-01623-JAM-CKD **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PARTIAL REMAND TO STATE COURT** Judge: Hon. John A. Mendez Courtroom: 6, 14th Floor Date: June 30th, 2026 Time: 1:00 p.m.

MEMORANDUM OF POINTS AND AUTHORITIES

In their Complaint originally filed in the Superior Court for the County of Stanislaus, Plaintiffs Pacific Media Workers Guild, Angel Jose Flores, Julissa Ruiz Ramirez, and Alyssa Leiva (collectively, "Plaintiffs") brought a well-pleaded state taxpayer claim under California Code of Civil Procedure § 526a ("the State Taxpayer Claim") against Defendant the City of Modesto and Defendant Brandon Gillespie, in his official capacity as Modesto Chief of Police (collectively, "Defendants"). Defendants removed this action on April 24, 2026 but asserted in their Answer, filed on May 1, 2026, that Plaintiffs "lack standing to prosecute" their State Taxpayer Claim. Thus, both Plaintiffs and Defendants agree that Plaintiffs do not have standing to bring this State Taxpayer Claim in federal court. This Court therefore lacks subject matter jurisdiction to hear such a claim, and federal law requires that it "shall" be remanded in accord with 28 U.S.C. § 1447(c). Absent remand, Plaintiffs would be forced to abandon a viable state-law claim—a result that neither caselaw, nor the principles of equity and fairness, permit.

FACTUAL BACKGROUND

On March 25, 2026, Plaintiffs initiated the above-named action, *Pacific Media Workers Guild, et al. v. City of Modesto, et al.*, in the Superior Court of the State of California, County of Stanislaus, as Case No. CV-26-003104. *See* Notice of Removal, Ex. A, ECF No. 1-2 ("Compl."). Plaintiff Pacific Media Workers Guild ("NewsGuild") is a labor union whose journalist members are also taxpayers. *Id.* ¶ 14. Individual Plaintiffs are California residents and taxpayers. *Id.* ¶¶ 15-17.

Plaintiffs allege that provisions in the Modesto Municipal Code, entitled Restrictions on Use of Specified Items During Public Assembly ("the Ordinance") impose an overbroad and impermissibly vague ban on face coverings and basic safety gear at public assemblies. *Id.* ¶ 1. They further allege that these provisions impede the NewsGuild from engaging in protected newsgathering activities and deter individual plaintiffs, and other members of the public, from engaging in constitutionally protected political speech, free association, and free assembly. *Id.*

In particular, the Complaint asserts six causes of action: a violation of freedom of speech and assembly under the U.S. and California Constitutions at Counts I and II (Compl. ¶¶ 107-128); a violation of due process under the U.S. and California Constitutions at Counts III and IV (*id.* ¶¶ 129-143); a violation of California Penal Code § 409.7 at Count V (*id.* ¶¶ 144-150); and, at Count V, a violation arising from the illegal expenditure of public funds under California's Taxpayer Statute set forth at Code of Civil Procedure § 526a (*id.* ¶¶ 151-157).

On April 24, 2026, Defendants removed the action to this Court, asserting federal question jurisdiction. *See* Notice of Removal of Action, ECF No. 1. One week later, on May 1, Defendants filed their Answer to Plaintiffs' Complaint. *See* Defendants' Joint Answer, ECF No. 10 ("Answer"). Defendants asserted in the Answer that Plaintiffs "lack standing to prosecute the purported claims set forth in the Complaint," including as set forth in Sixth Cause of Action. *Id.*, Third Affirmative Defense ¶ 3.[1]

LEGAL STANDARD

Defendants have the burden of establishing that this action is "founded on a claim or right arising under the Constitution, treaties or laws of the United States." 28 U.S.C. § 1441(b); *Ethridge v. Harbor House Rest.*, 861 F.2d 1389, 1393 (9th Cir. 1988). The removal statute is strictly construed and if "there is any doubt as to the right of removal" federal jurisdiction must be rejected. *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996). If the removing party cannot establish subject matter jurisdiction over a particular claim, then the federal court "must sever 'any claim for which the district court lacks jurisdiction' and those claims 'must subsequently be remanded.'" *Id.* (quoting *Indep. Living Ctr. of S. Cal., Inc. v. Kent*, 909 F.3d 272, 287 (9th Cir. 2018); *see also Lee v. Am. Nat. Ins. Co.*, 260 F.3d 997, 1006-07 (9th Cir. 2001) (acknowledging that a case properly removed in its entirety may be effectively split up and remanded when some claims cannot be adjudicated in federal court).[2]

[1] Though Plaintiffs agree with Defendants that they lack federal standing as to their State Taxpayer Claim set forth in their Sixth Cause of Action, Plaintiffs contest the Defendants' other affirmative defenses in full and, in particular, Plaintiffs assert that they have standing to pursue Causes of Action One through Five in this Court. *See* 28 U.S.C. § 1331; 28 U.S.C. 1367(a).

[2] *Lee* involved a case removed pursuant to diversity jurisdiction, but there is "no meaningful distinction between federal question and diversity jurisdiction, [] that would direct a different

ARGUMENT

Having sought removal of Plaintiffs' First and Fourteenth Amendment claims, Defendants "bear the burden of establishing federal jurisdiction over the state law claim[s]." *Britton v. Cnty. of Santa Cruz*, No. 19-CV-04263-LHK, 2020 WL 4197609, at *4 (N.D. Cal. July 22, 2020) (citing *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir. 2009)). Defendants cannot meet their burden to establish that Plaintiffs' State Taxpayer Claim can be heard in federal court because this Court lacks both original and supplemental jurisdiction to consider it.

I. Federal Courts Lack Original Jurisdiction to Hear Claims Based on Taxpayer Status

Federal courts, constrained by Article III's case-or-controversy requirement, have no jurisdiction to hear a claim if plaintiffs lack standing to assert it. Standing "represents a jurisdictional requirement" for all federal courts. *Nat'l Org. for Women, Inc. v. Scheidler*, 510 U.S. 249, 255 (1994). It "cannot be maintained" on the basis of federal taxpayer status. *Frothingham v. Mellon*, 262 U.S. 447, 487 (1923). As the U.S. Supreme Court has explained, taxpayer standing falters in federal court "because the alleged injury is not 'concrete and particularized,'" but instead a grievance the taxpayer "suffers in some indefinite way in common with people generally." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 344 (2006) (quoting *Lujan v. Defs. of* Wildlife, 504 U.S. 555, 560 (1992)); *Frothingham*, 262 U.S. at 488); *see also Lance v. Coffman*, 549 U.S. 437, 439-42 (2007) (per curiam) (emphasizing same).

The general bar on federal taxpayer standing "applies also to state taxpayer standing." *Jones v. City of Los Angeles*, No. 2:20-CV-11502-VAP-(JCX), 2021 WL 6496750, *6 (C.D. Cal. Oct. 5, 2021). Where a plaintiff has pled a state taxpayer claim, a federal court can only hear such a claim if the plaintiff can demonstrate Article III standing on an independent basis separate and apart from a plaintiff's state taxpayer standing. *See Cantrell v. City of Long Beach*, 241 F.3d 674, 683 (9th Cir. 2001) (holding that while plaintiffs may have standing under California law to bring their suit in state court, "that does not help them" in federal court).

---

result in this case." *Lee*, 260 F.3d at 1004.

With respect to cases originating in California courts, taxpayer standing under § 526a presents an "awkward interface" between state and federal standing doctrines. *Carne v. Stanislaus Cnty. Animal Servs. Agency*, 445 F. Supp. 3d 772, 778 (E.D. Cal. 2020). A plaintiff who properly invokes taxpayer standing in one of the state's superior courts lacks standing if the same claim is removed to federal court. *See id.* As numerous courts have concluded, the remedy for such a mismatch is remand to state court. *See Chamberlain v. Mims*, No. 1:14-CV-01106-MCE-MJS, 2014 WL 6669138, at *2 (E.D. Cal. Nov. 24, 2014) (concluding that when plaintiffs do not have standing to sue in federal court, remand is proper); *see also Simon v. City & Cnty. of San Francisco*, No. 22-CV-05541-JST, 2024 WL 590360, at *10 (N.D. Cal. Feb. 13, 2024) (remanding § 526a claim), *aff'd in part and vacated in part on other grounds*, 135 F.4th 784 (9th Cir. 2025); *Turner v. City & Cnty. of San Francisco,* No. C-11-1427 EMC, 2012 WL 6631490, at *15 (N.D. Cal. Dec. 19, 2012) (remanding § 526a claim for consideration in state court), *aff'd*, 617 F. App'x 674, 677 (9th Cir. 2015).

Defendants assert that Plaintiffs lack Article III standing for the claims asserted. *See* Answer, Third Affirmative Defense ¶ 3. Plaintiffs agree with that assertion *only* as to the Sixth Cause of Action—the State Taxpayer claim. Standing for that claim rests on Plaintiffs' status as taxpayers in Modesto and the State of California, which is insufficient to satisfy Article III requirements. This Court therefore must remand Plaintiffs' State Taxpayer Claim.

II. Supplemental Jurisdiction Does Not Extend to Claims for which There is No Article III Standing

Federal courts may exercise supplemental jurisdiction under 28 U.S.C. § 1367(a) to hear claims outside their original jurisdiction. But this does not "permit a federal court to exercise supplemental jurisdiction over a claim that does not itself satisfy those elements of the Article III inquiry, such as constitutional standing." *DaimlerChrysler Corp*, 547 U.S. at 351-52. This is because "a plaintiff must demonstrate standing for each claim he seeks to press." *Id.* (collecting citations). The Supreme Court is clear that § 1367(a) may not be expanded to permit supplemental jurisdiction over individual claims which lack standing because they are attached to claims with standing. *Id.* at 352. Such a boot-strapping would "amount to a significant revision of our precedent interpreting Article III." *Id.* If a plaintiff cannot demonstrate standing for a particular claim because it relies on standing under state law, a federal court may not exercise supplemental jurisdiction over that claim. *See id.* at 346. This situation is precisely the one presented by Plaintiffs' State Taxpayer Claim.

Defendants contend that "this Court may exercise its supplemental jurisdiction pursuant to 28 U.S.C. § 1367" over Plaintiffs' state law claims. Notice of Removal at 3, ECF No. 1. But plaintiffs bringing § 526a claims in federal court are not relieved "of the obligation to establish a direct injury under the more stringent federal requirements for state and municipal taxpayer standing." *Cantrell*, 241 F.3d at 683. And when there is no independent Article III basis for a state taxpayer claim, that claim cannot be brought in federal court. *See id.* at 684. Accordingly, because Plaintiffs' lack Article III standing to pursue their taxpayer claim, this Court lacks jurisdiction and may not exercise supplemental jurisdiction over it. The Court should remand the State Taxpayer Claim to state court, where Plaintiffs undeniably have standing to pursue it.

III. Plaintiffs Cannot Be Forced to Forfeit a Viable State Law Claim for Lack of Federal Jurisdiction

The Ninth Circuit has held that if, as here, a plaintiff pleads a viable state law claim that would be dismissed for lack of standing once removed to federal court, the claim should be remanded. *See Polo v. Innoventions Int'l, LLC*, 833 F.3d 1193, 1199 (9th Cir. 2016). Partial remand, as Plaintiffs request here, avoids the unfairness that would result from forcing a plaintiff to "forfeit an otherwise viable-state law claim" because that claim was removed to federal court. *Lee*, 260 F.3d, at 1006-07; *id.* at 1007 (opining that forfeiture militates in favor of remand rather than dismissal of nonjusticiable state-law claims").

In accord with these decisions, district courts have also found that the "discrepancy" between federal and state court standing requirements and the impact it can have on a party's claims justifies remanding them to state court. *See Carne*, 445 F. Supp. 3d at 777-78; *see also California v. N. Tr. Corp.*, No. CV 12-01813 DMG (FMOX), 2013 WL 1561460, at *5 (C.D. Cal. Apr. 10, 2013) (holding that plaintiff's state law claims must be remanded to state court because dismissal would force plaintiff to forfeit its otherwise viable state law claims as contemplated by *Lee*); *see also Simon*, 2024 WL 590360, at *10 (same).[3]

Although partial remand may "result in duplicative litigation," the Ninth Circuit has also found that "such result is preferable to a federal court enabling defendants to prevent plaintiffs from seeking relief for claims for which they have standing in state court, but not under Article III, by removing the entire case." *Reyes v. Checksmart Fin., LLC*, 701 F. App'x 655, 660 (9th Cir. 2017). And again, courts in this district likewise recognize that remand is appropriate for individual claims—such as Plaintiffs' State Taxpayer Claim—where a party lacks federal standing for those particular claims. *See Chamberlain*, 2014 WL 6669138, at *2.

Taken together, these authorities demonstrate that Plaintiff's Sixth Cause of Action should not be forfeited because it is a viable state law claim over which this Court lacks jurisdiction. Rather it should be remanded to the state court from which it was removed.

CONCLUSION

To ensure that this case can be litigated in full, Plaintiffs respectfully request that the Court remand Plaintiffs' State Taxpayer Claim the Superior Court for Stanislaus County.

Date: May 14, 2026

Respectfully Submitted,

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA, INC.

/s/ Chessie Thacher
Chessie Thacher (SBN 296767)
Angelica Salceda (SBN 296152
Shaila Nathu (SBN 314203)

Attorneys for Plaintiffs

[3] The district court cases that do not follow *Lee* do so for reasons not relevant to the present matter. *See, e.g., Cabral v. Supple, LLC*, No. EDCV-12-00085-MWF-OP, 2016 WL 1180143, at *4-5 (C.D. Cal. Mar. 24, 2016) (declining to partially remand a state law claim unrelated to state taxpayer standing because the court exercised original, rather than supplemental, jurisdiction over the claim and because plaintiffs sought remand for a particular form of relief rather than a claim); *see also Platt v. Moore*, No. CV-16-08262-PCT-BSB, 2019 WL 10248681, at *3 (D. Ariz. Feb. 26 2019) (declining to partially remand a state law claim unrelated to state taxpayer standing because plaintiffs sought remand to compel injunctive relief), *see also Chuang v. Dr. Pepper Snapple Grp., Inc.*, No. CV 17-1875-MWF(MRWX), 2017 WL 2463951, at *2 (C.D. Cal. June 7, 2017) (same).