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8
9 **UNITED STATE DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
10 **OAKLAND DIVISION**

11 DAVI LUKS,

12 *Plaintiff,*

13 v.
14

15 COUNTY OF CONTRA COSTA,

16 *Defendant.*
17

Case No. 4:26-cv-4509

COMPLAINT

INTRODUCTION

1
2 1. Defendant Contra Costa County is denying its residents, including Plaintiff Davi Luks,
3 the right to engage in constitutionally protected speech by unlawfully restricting the signs they can place
4 on their own property. But “[a] special respect for individual liberty in the home has long been a part of
5 our culture and our law” *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994). A key aspect of that
6 liberty is the right to display a sign from one’s home, which is recognized as “a venerable means of
7 communication that is both unique and important.” *Id.* at 54. Residential signs are “an unusually cheap
8 and convenient form of communication” that, “[e]specially for persons of modest means or limited
9 mobility . . . may have no practical substitute.” *Id.* at 56. The protection of an individual’s free speech
10 rights “has special resonance” when government seeks to constrain a person’s ability to speak from their
11 home. *Id.* at 58.

12 2. Yet that is what the County of Contra Costa has done. Through its Sign Ordinance, it has
13 severely restricted the ability of residents in unincorporated parts of the County to express themselves
14 through signs placed at their homes. It has also established and enforced content-based restrictions on
15 such speech by favoring certain forms of commercial speech over political speech. It has fined Plaintiff
16 Davi Luks, a retired schoolteacher living on a modest fixed income, and has placed a lien on his
17 property, for asserting his First Amendment right to express his views through signs he created and
18 posted on his own property. In light of the County’s enforcement of the Sign Ordinance against him, Mr.
19 Luks justifiably fears future enforcement, which chills him from erecting signs in the future.

20 3. Mr. Luks brings this action to for declaratory and injunctive relief and money damages to
21 vindicate his and others’ free speech and due process rights under the United States and California
22 Constitutions. He seeks an order from this Court invalidating sections of the Sign Ordinance that
23 unlawfully restrict rights of self-expression.

JURISDICTION AND VENUE

24
25 4. The Court has original jurisdiction over this action pursuant 28 U.S.C. § 1331 because
26 this action arises under the U.S. Constitution and 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 1367, this
27 Court also has supplemental jurisdiction over California constitutional and statutory claims. Plaintiff’s
28

1 state law claims are related to his federal claims, arise out of a common nucleus of operative facts, and
2 form part of the same case or controversy under Article III of the U.S. Constitution.

3 5. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391(b)–
4 (c) because Defendant County of Contra Costa is within this District and all events giving rise to
5 Plaintiff’s claims occurred in the District. For the same reason, venue is also proper in this Court
6 pursuant to Civil L.R. 3-2(d). The relief that Plaintiff seeks is within this Court’s power to grant.

7 **DIVISIONAL ASSIGNMENT**

8 6. Because the actions giving rise to this complaint occurred in the County of Contra Costa,
9 this case should be assigned to the Northern District’s San Francisco Division or its Oakland Division.

10 **PARTIES**

11 7. Plaintiff DAVI LUKS is a resident and property owner in El Sobrante, California, within
12 the unincorporated area of the County (the “Unincorporated Area”). His property is located within 1,000
13 feet of a school. As a retired schoolteacher, he lives on a modest fixed income. Under the provisions of
14 Defendant County’s Sign Ordinance, he was fined \$4,300 by the County for erecting and maintaining
15 signs expressing his political views “without approval,” and for erecting these signs within 1,000 feet of
16 a school. As a result of the fine, a lien was placed on Mr. Luks’s property, and the County has failed to
17 remove the lien even though he has removed the signs and paid the fine. He would like to once again
18 erect signs expressing his views on his private property, but is deterred from doing so by the threat of
19 future fines.

20 8. Defendant COUNTY OF CONTRA COSTA (“County”) is a political subdivision of the
21 State of California, organized and existing under the Constitution of the State of California. It is a person
22 for purposes of 42 U.S.C. § 1983 and thus can sue and be sued in its own name. Defendant County is
23 run by a five-member Board of Supervisors. Defendant County enacted the challenged Ordinance and
24 enforces the Ordinance through the Code Enforcement unit of its Department of Conservation and
25 Development and is liable for violating the constitutional rights of Mr. Luks and other residents seeking
26 to express themselves by erecting signs. Defendant County is further liable for recording an unlawful
27 lien against Mr. Luks’s property to collect an administrative fine.

1 **FACTUAL ALLEGATIONS**

2 **A. Defendant’s Unconstitutional Sign Ordinance**

3 9. The Contra Costa County Sign Ordinance (the “Sign Ordinance” or “Ordinance”),
4 principally codified at Chapter 88-6 of the Contra Costa County Code (“Code”), extensively regulates
5 “the construction, placement, display, and maintenance of signs” in the Unincorporated Area, including
6 signs placed on one’s private property. § 88-6.204.¹ A copy of the Ordinance is attached hereto as
7 **Exhibit 1**. The Ordinance broadly defines “sign” as “any structure, display, device, or graphic on or
8 attached to any land, building, or structure, that communicates or intends to communicate any message,
9 or that advertises or promotes any business, product, activity, person, or interest.” § 82-4.262.

10 10. The Ordinance severely regulates signs on private property through three mechanisms,
11 each of which violates Plaintiff’s and other residents’ First Amendment rights. Operating together, these
12 mechanisms unconstitutionally suffocate nearly all sign-related speech in the Unincorporated Area.

13 11. *First*, the Ordinance prohibits nearly all signs on single-family residential lots (hereafter,
14 the “Residence Prohibition”). Section 88-6.608(b) provides that “no sign may be constructed, placed,
15 displayed, or maintained on any lots in a single-family residential district,” with a few very narrow
16 exemptions. Sections 88-6.606(a)-(c) set forth exemptions for “one flagpole and three flags per lot”; “a
17 sign that cannot be seen from a public street, private road, or adjacent property”; and “temporary signs”
18 that cannot be maintained for more than 60 days. Importantly, two other exemptions privilege
19 commercial speech over non-commercial speech: Section 88-6.608(d) exempts “commercial signs on a
20 lot with a grower stand, farm stand, or farm market;” and Section 88-6.616(a)-(b) exempts “temporary
21 signs” advertising lots for sale, which may be maintained for up to 18 months—nine times as long as the
22 exemption for non-commercial temporary signs.

23 12. *Second*, the Ordinance prohibits nearly all signs throughout the Unincorporated Area,
24 based on their *physical characteristics or location*. § 88-6.416 (hereafter, the “Area-Wide Prohibitions”).
25 Thus “no person may construct, place, display, or maintain a sign” that is, among other things,
26 “portable”, “attached to a fence”, “painted on a wall, bench, structure, or building”, “constructed of cloth
27 or other flexible material, except for flags attached to a flagpole”, supported by exposed wires or

28 ¹ All section references are to the Code unless otherwise indicated. When the language of such sections
is quoted, capitalization is disregarded.

1 cables”, or “designed, placed, or oriented for freeway exposure.” § 88-6.416(d)(2), (3), (5)-(8).
2 Additionally, “no person may construct, place, display or maintain a freestanding² sign within 1,000 feet
3 of a school, playground, or park.” § 88-6.416(e). Based on publicly available data, the limitation
4 pertaining to schools and parks alone prohibits all freestanding signs (and therefore potentially all signs)
5 in approximately 37% of the landmass of the Unincorporated Areas, and approximately 43% of all
6 residential areas therein, including up to 100% of the total landmass and residential areas of some of the
7 census-designated places in the Unincorporated Area.

8 13. *Third*, for the few signs that are not categorically prohibited by the Residence Prohibition
9 or the Area-Wide Prohibitions, it appears that anyone wishing to “construct, place, display, or maintain”
10 a sign may first have to obtain a permit for each sign. § 88-6.402 (hereafter, “Permit Requirement”). To
11 obtain a permit, a person must submit a written application accompanied by a fee of \$750. § 88-6.406;
12 *see also* the County’s Land Development Fee Schedule at p. 20, available at: [https://perma.cc/U88E-](https://perma.cc/U88E-7JLA)
13 [7JLA](https://perma.cc/U88E-7JLA). The County’s Zoning Administrator is empowered to approve or deny sign permit applications
14 based on open-ended criteria such as whether “[t]he non-communicative aspects of the sign are
15 compatible with the property where the sign is located and the surrounding area,” or whether the sign’s
16 location “will impair the use of the property or conflict with the visibility, location, or arrangement of
17 existing adjacent signs.” § 88-6.410. A permit will not be granted if any sign violating the Ordinance is
18 located anywhere on the lot, or if other code violations exist on the lot, or if the owner has failed to
19 obtain “all other applicable permits and approvals” or pay the fee required by the Code. § 88-6.408(b).

20 14. Whether the Permit Requirement applies to residents who wish to erect signs on their
21 own property is unclear. Section 88-6.608(b) appears to suggest that single-family residences are not
22 covered by the Permit Requirement. As set forth below, however, Mr. Luks was cited and fined for
23 maintaining “signs attached to a fence and freestanding signs placed within 1,000 ft. of a school property
24 *without approval*,” and for maintaining “more than one (1) flagpole and three (3) flags on the property
25 *without approval*,” which suggests that failure to obtain a permit played a part in the County’s decision
26 to issue a citation.

27 ² A “freestanding” sign is one that is “independently supported in a fixed location and not attached in
28 any way to a building or structure” § 88-6.412(d).

1 15. As a result of the Residence Prohibition, the Area-Wide Prohibition, and the Permit
2 Requirement, a resident within the Unincorporated Area who wishes to exercise their constitutional free-
3 speech rights by erecting signs is severely restricted from doing so. Moreover, it is clear that the
4 County’s restrictions favor certain types of speech (commercial speech advertising produce sales or lots
5 for sale) over non-commercial and political speech.³

6 16. The Ordinance also severely limits signs on cars and other vehicles. It prohibits signs
7 “painted on or attached to a parked vehicle for purpose of advertising to the public” and any sign
8 “attached to, supported by, or suspended from a vehicle parked on a street or lot, except a sign that is an
9 integral part of the vehicle.” (§§ 88-6.416(d)(4) and 88-6.618.) It is not clear what “advertising”
10 encompasses or what constitutes an “integral part of the vehicle.”

11 **B. The County’s Enforcement of the Sign Ordinance Against Mr. Luks**

12 17. Davi Luks is a 74-year-old retired public schoolteacher who owns a home in which he
13 resides in El Sobrante, which is one of several developed residential areas in the Unincorporated Area.
14 His home is located across the street from the El Sobrante Christian School. He lives on a fixed income
15 of approximately \$2,300 a month from his pension.

16 18. Starting in the fall of 2023, Mr. Luks closely followed news of the Israel-Gaza war. As a
17 grandfather and a former schoolteacher, he was especially impacted by news reports of violence against
18 children. He was also distressed by what he perceived as propaganda regarding the Israeli government’s
19 actions in Gaza.

20 19. Mr. Luks decided to hand paint and erect signs with messages expressing his views on his
21 property. Making the signs was painstaking and time-consuming work: he spent a lot of time reflecting
22 on what he wanted to express, mapping the messages out so that they would fit on pieces of cardboard,
23 and then carefully stenciling the words. Many of the signs expressed support for Palestine; others
24 protested his concerns about the United States government’s ban on TikTok and anti-Asian bias.

25 ³ The Ordinance is also unclear as to the regulation of “wall signs” and “window signs.” A sign on a
26 wall or in a window cannot exceed ten percent of the area of the wall or window on which it is placed. §
27 88-6.612(a)(3)-(4). While this restriction does not apply to “a placard placed on or attached to a
28 window” (§ 88-6.212(q)), it is not clear what qualifies as or what regulations to apply to such a
“placard.”

1 20. Some of the signs he erected were freestanding, while others were placed on the fence on
2 his property, facing the street. He continued to make signs and swap them out every few days as he
3 finished them. He also erected several flagpoles and put up various flags at different points in time.

4 21. Soon thereafter, on or about November 20, 2023, Defendant County commenced an
5 investigation of Mr. Luks’s signs that appears to have been based on their content. The Code
6 Enforcement History Report prepared by the County’s Department of Conservation and Development
7 (the “Department”) describes the case as involving an “offensive sign display on fence,” and states that
8 the investigation was commenced for the purpose of following up on an unspecified “complaint.”
9 According to the Report, a site investigation “revealed more than maximum allowable amount of one
10 flagpole and three flags on property without approval” and “signs attached to the fence and free-standing
11 signs within 1000 feet of a school on the property without approval.”

12 22. For these alleged violations, the County imposed an administrative penalty of \$4,300
13 against Mr. Luks and placed an assessment lien against his property to collect the fine.

14 23. Mr. Luks paid the administrative penalty in two installments, on December 2, 2024 and
15 February 8, 2025. Paying this fine imposed a significant hardship on Mr. Luks, given his fixed income,
16 and he had to turn to family members for help to pay the fine.

17 24. As of May 13, 2026, the assessment lien remained recorded on Mr. Luks’s property even
18 though the fine was fully paid more than a year ago.

19 25. Mr. Luks made several attempts to contest the fine, but all of his claims have been
20 denied.

21 26. On or about August 6, 2025, Mr. Luks filed a claim in Richmond Small Claims Court
22 against the Department, challenging the penalty. On August 26, 2025, the court entered judgment
23 dismissing his claim.

24 27. On October 20, 2025, Mr. Luks presented to the County a claim under the California
25 Government Claims Act (Cal. Gov’t Code §§ 810–996.6), seeking reimbursement of the penalty. The
26 County Board of Supervisors denied the claim at its November 18, 2025 meeting.

27 28. On April 30, 2026, the American Civil Liberties Union of Northern California (“ACLU”)
28 submitted a letter on behalf of Mr. Luks to the County Board of Supervisors raising serious

1 constitutional concerns with the Ordinance and the County’s enforcement of the Ordinance against Mr.
2 Luks. The letter demanded that the Board agenda discussion of the Ordinance at its May 12, 2026
3 meeting and vote to repeal or substantially amend it to comply with federal and state law. It further
4 demanded the County refund the full \$4,300 administrative penalty to Mr. Luks, remove the lien
5 recorded against his property, and cease enforcing the Ordinance against political or noncommercial
6 signs.

7 29. As of May 13, 2026, the County had failed to respond to the ACLU’s letter.

8 30. Mr. Luks has taken down the signs for which he was cited. However, he desires to once
9 again exercise his constitutional free speech rights by erecting signs up on his property, especially in
10 light of ongoing violence against children; but he is deterred from doing so by both his fear that he will
11 once again face severe penalties for allegedly violating the Ordinance and his uncertainty over whether
12 he would be required to seek a permit and pay a \$750 permit fee.

13 **LEGAL CLAIMS**

14 **FIRST CLAIM FOR RELIEF**

15 **Violation of Freedom of Speech**

16 **(First Amendment of the U.S. Constitution; 42 U.S.C. § 1983)**

17 31. Plaintiff incorporates by reference all foregoing and subsequent paragraphs as though
18 fully set forth herein.

19 32. The First Amendment, as applied to state and local government agencies and officials by
20 the Fourteenth Amendment, prohibits government entities from “abridging the freedom of speech”
21 *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015).

22 33. The Ordinance implicates the First Amendment because “signs are a form of expression
23 protected by the Free Speech Clause.” *City of Ladue*, 512 U.S. at 48; *see also Baldwin v. Redwood City*,
24 540 F.2d 1360, 1366 (9th Cir. 1976) (“Communication by signs and posters is virtually pure speech”
25 implicating “[s]ignificant First Amendment interests.”). The Ordinance creates serious constitutional
26 problems, especially as applied to “speech on public issues,” which “occupies the ‘highest rung of the
27 hierarchy of First Amendment values,’ and is entitled to special protection.” *Connick v. Myers*, 461 U.S.
28 138, 145 (1983) (quoting *N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982)).

1 34. The Ordinance is both facially invalid and invalid as applied to Plaintiff Luks for at least
2 three distinct reasons.

3 35. *First*, several provisions of the Ordinance are facially invalid because they are overbroad.
4 “[T]he overbreadth doctrine permits the facial invalidation of laws that inhibit the exercise of First
5 Amendment rights if the impermissible applications of the law are substantial when ‘judged in relation
6 to the statute’s plainly legitimate sweep.’” *City of Chicago v. Morales*, 527 U.S. 41, 52 (1999) (quoting
7 *Broadrick v. Oklahoma*, 413 U.S. 601, 612–15 (1973)). This “expansive remedy” is provided “out of
8 concern that the threat of enforcement of an overbroad law may deter or ‘chill’ constitutionally protected
9 speech” *Virginia v. Hicks*, 539 U.S. 113, 118–19 (2003).

10 36. Both individually and taken together, the Residence Prohibition, the Area-Wide
11 Prohibitions, and the Permit Requirement are overbroad. The prohibition on “freestanding signs within
12 1,000 feet of a school, playground, or park,” combined with the Ordinance’s restrictions on most other
13 signs on residential properties, almost completely foreclose Mr. Luks—or any other resident in vast
14 swaths of the Unincorporated Area—from erecting any signs at all on their own properties. This is
15 precisely the kind of restriction that the Supreme Court struck down on overbreadth grounds in *City of*
16 *Ladue*.

17 37. *Second*, the Ordinance creates a content-based restriction on speech that is not supported
18 by a compelling governmental interest. In granting more favorable treatment to signs with certain
19 commercial messages, such as those advertising produce at a farm stand or a property lot for sale, than
20 to noncommercial speech, including political speech, the Ordinance on its face regulates signs based on
21 their content. Such a law, which “target[s] speech based on its communicative content,” is
22 “presumptively unconstitutional and may be justified only if the government proves that [it is] narrowly
23 tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163. The County cannot meet this burden.
24 In addition, it appears that the Ordinance is not enforced in a content-neutral manner. As set forth above,
25 the Code Enforcement History Report prepared by the Department reveals that the enforcement action
26 against Mr. Luks was initiated on the basis of a complaint, presumably by someone who disapproved of
27 the messages conveyed by his signs, and describes the case as involving an “offensive sign display on
28 fence.”

1 38. *Third*, to the extent they apply to residential signs, the permit application process and
2 \$750 deposit for sign review directly infringe on the First Amendment rights of Mr. Luks and
3 individuals who want to express noncommercial messages on their private property. “It is offensive—
4 not only to the values protected by the First Amendment, but to the very notion of a free society—that in
5 the context of everyday public discourse a citizen must first inform the government of her desire to
6 speak to her neighbors and then obtain a permit to do so.” *Watchtower Bible and Tract Soc’y of New*
7 *York v. Vill. of Stratton*, 536 U.S. 150, 165–66 (2002). The flat rate deposit is further “an
8 unconstitutional tax upon the exercise of First Amendment rights.” *Baldwin*, 540 F.2d at 1371. For
9 garden variety yard signs and the like on private property, “the charge is so disproportionately
10 burdensome as to inhibit such an expression of political opinion.” *Id.* at 1372. Individually and together,
11 the County’s Residence Prohibition, Area-Wide Prohibitions, and Permit Requirement are invalid
12 because they are “unnecessarily burdensome and arbitrary in light of the interests such regulations may
13 properly serve.” *Id.*

14 39. To the extent the Sign Ordinance purports to be a content-neutral time, place, and manner
15 restriction, its restrictions on signs erected on private property are not narrowly tailored to serve a
16 substantial governmental interest, and do not leave open ample alternative channels for communication.
17 The County cannot demonstrate a necessity for these restrictions and can promote its interests through
18 other, less restrictive means.

19 40. For these reasons, Sections 88-6.608(b), 88-6.606, 88-6.416(d)(3) and 88-6.416(e), as
20 well as Section 88-6.402 (to the extent that it purports to regulate signs on private property) of the
21 Ordinance should be declared unconstitutional in violation of free speech protections set forth in the
22 First Amendment.

23 **SECOND CLAIM FOR RELIEF**

24 **Violation of Freedom of Speech**

25 **(Article I, Section 2 of the California Constitution; 42 U.S.C. § 1983)**

26 41. Plaintiff incorporates by reference all foregoing and subsequent paragraphs as though
27 fully set forth herein.

28 42. Article I, Section 2 of the California Constitution prohibits laws that “restrain or abridge

1 liberty of speech or press.” “The California Constitution, and California cases construing it, accords
2 greater protection to the expression of free speech than does the United States Constitution.” *Mardi Gras*
3 *of San Luis Obispo v. City of San Luis Obispo*, 189 F. Supp. 2d 1018, 1025 (C.D. Cal. 2002) (quoting
4 *Gonzales v. Superior Court*, 180 Cal.App.3d 1116, 1122 (1986)). “The state constitutional provisions
5 are more protective and inclusive of the rights to free speech and press than the federal counterpart.” *Id.*

6 43. Although “the California Constitution is an independent document and its constitutional
7 protections are separate from and not dependent upon the federal Constitution,” the framework for
8 evaluating infringements proceeds along similar lines. *Los Angeles All. for Survival v. City of Los*
9 *Angeles*, 22 Cal. 4th 352, 365 (2000) (citing Cal. Const. art. I, § 24). “[I]n analyzing speech restrictions
10 under the California Constitution, California courts employ the same time, place and manner test as the
11 federal courts.” *Prigmore v. City of Redding*, 211 Cal. App. 4th 1322, 1336 (2012).

12 44. In light of California law and for the same reasons as set forth in the related federal claim,
13 Sections 88-6.608(b), 88-6.606, 88-6.416(d)(3) and 88-6.416(e), as well as Section 88-6.402 (to the
14 extent that it purports to regulate signs on private property) of the Ordinance should be declared
15 unconstitutional in violation of free speech protections set forth in Article I, Section 2.

16 **THIRD CLAIM FOR RELIEF**

17 **Violation of Due Process—Void for Vagueness**

18 **(Fourteenth Amendment of the U.S. Constitution; 42 U.S.C. § 1983)**

19 45. Plaintiff incorporates by reference all foregoing and subsequent paragraphs as though
20 fully set forth herein.

21 46. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution provides
22 that no state shall “deprive any person of life, liberty, or property, without due process of law.” To
23 satisfy due process, a law must be sufficiently definite to provide (1) adequate notice of the conduct
24 proscribed and (2) sufficient guidelines for officials so that arbitrary and discriminatory enforcement
25 does not occur. *United States v. Williams*, 553 U.S. 285, 304 (2008). When, as here, First Amendment
26 rights are implicated, “rigorous adherence” to these requirements “is necessary to ensure that ambiguity
27 does not chill protected speech.” *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253–54 (2012);
28 *see also Forsyth County v. Nationalist Movement*, 505 U.S. 123, 133 (1992).

1 47. The Ordinance violates due process in several respects by failing to provide adequate
2 notice of what conduct it prohibits.

3 48. *First*, the structure of the Ordinance and its prohibitions is confusing, creating uncertainty
4 as to whether a person is required to apply for a permit to erect a sign on their private property. Section
5 88-6.402 provides that “no person may construct, place, display, or maintain a sign in the
6 unincorporated area of the County without first obtaining a permit,” suggesting that a person who
7 resides in the Unincorporated Area (like Mr. Luks) must obtain a permit before placing a sign on his
8 property. Section 88-6.808 additionally provides that “no sign may be constructed, placed, displayed, or
9 maintained on any lot in a single-family residential district . . . except for an exempt sign under . . .
10 Section 88-6.606. Section 88-6.606 exempts specified categories of signs, including “one flagpole and
11 three flags per lot”, “a sign that cannot be seen from a public street, private road, or adjacent property”, a
12 “temporary sign” maintained for no more than 60 days, or “commercial signs on a lot with a grower
13 stand, farm stand, or farm market.” But what about signs not covered by these narrow exemptions, such
14 as a sign intended to be displayed for more than 60 days? Is the resident required to apply for a sign
15 permit, or are such signs never permitted? The Ordinance does not say.

16 49. *Second*, Section 88-6.416(d)(2) broadly bans, without defining, “portable” signs. But
17 Section 88-6.212(o) permits a “temporary sign,” defined as a sign “constructed to be maintained for a
18 period of limited duration” that is “neither permanently installed in the ground nor permanently affixed
19 to a building or structure permanently installed in the ground.” Those wanting to erect signs are thus
20 forced to guess whether a “temporary sign” might also be deemed in violation because it is “portable.”

21 50. *Third*, it is unclear what qualifies as “a placard placed on or attached to a window” (§ 88-
22 6.212(q)) or what regulations to apply to such a sign. *See supra* note 3.

23 51. *Fourth*, to the extent that the Permit Requirement applies to signs erected on private
24 property, the Ordinance gives significant discretion to the “zoning administrator” in reviewing and
25 ultimately approving or denying sign permit applications (and, thus, the messages that they convey). The
26 administrator is empowered to approve or deny applications based on open-ended criteria such as
27 whether “[t]he non-communicative aspects of the sign are compatible with the property where the sign is
28 located and the surrounding area,” or whether the sign’s location “will impair the use of the property or

1 conflict with the visibility, location, or arrangement of existing adjacent signs.” Such abstract findings
2 are not concrete benchmarks and improperly rely on the subjective discretion of the government
3 employee. Most significantly, the administrator must find that a sign complies with the Ordinance before
4 granting a permit. This determination involves subjective interpretation of the vague provisions
5 identified above and confers an unconstitutional degree of discretion over which signs (and, thus, which
6 messages) will be subject to enforcement. Such discretion can lead to viewpoint-discriminatory
7 enforcement, an “egregious form of content discrimination” that prohibits speech based on the views of
8 the speaker. *Rosenberger v. Rector and Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995). Based
9 on the history of enforcement against Mr. Luks, it appears that such viewpoint discrimination has
10 occurred here.

11 52. The vagueness of the Ordinance imposes a chilling effect on speech in violation of the
12 rights of Plaintiff and the public to due process of law, an effect that is amplified by the substantial
13 monetary penalties to be imposed for violations under the Ordinance.

14 53. For these reasons, Sections 88-6.608(b), 88-6.606, 88-6.416(d)(2) and (d)(3), 88-
15 6.416(e), and 88-6.212(q) as well as Section 88-6.402 (to the extent that it purports to regulate signs on
16 private property) should be declared unconstitutionally void for vagueness in violation of due process
17 protections under the Fourteenth Amendment to the U.S. Constitution.

18 **FOURTH CLAIM FOR RELIEF**

19 **Violation of Due Process—Void for Vagueness**

20 **(Article I, Section 7 of the California Constitution)**

21 54. Plaintiff incorporates by reference all foregoing and subsequent paragraphs as though
22 fully set forth herein.

23 55. Article I, Section 7 of the California Constitution provides that a “person may not be
24 deprived of life, liberty, or property without due process of law.” The analysis for due process violations
25 under state law is similar to the analysis under federal law. That is, a law must be sufficiently definite to
26 provide adequate notice of the conduct proscribed and provide sufficient guidelines for officials so that
27 arbitrary and discriminatory enforcement does not occur. When free speech rights are at stake, an even
28 greater degree of specificity is required to ensure that ambiguity does not chill protected speech.

1 *Franklin v. Leland Stanford Junior Univ.*, 172 Cal. App. 3d 322, 347 (1985).

2 56. In light of California law and for the same reasons as set forth in the related federal cause
3 of action, Sections 88-6.608(b), 88-6.606, 88-6.416(d)(2) and (d)(3), 88-6.416(e), and 88-6.212(q) as
4 well as Section 88-6.402 (to the extent that it purports to regulate signs on private property) of the
5 Ordinance should be declared unconstitutionally void for vagueness in violation of due process
6 protections set forth in Article I, Section 7.

7 **FIFTH CLAIM FOR RELIEF**

8 **Violation of Due Process—Unlawful Lien**

9 **(Article I, Section 7 of the California Constitution)**

10 57. Plaintiff incorporates by reference all foregoing and subsequent paragraphs as though
11 fully set forth herein.

12 58. A land use action “that fails to serve any legitimate governmental objective may be so
13 arbitrary or irrational that it runs afoul of the Due Process Clause.” *Lingle v. Chevron U.S.A. Inc.*, 544
14 U.S. 528, 542 (2005). The Ninth Circuit has concluded that there is a substantive due process claim
15 where a challenged regulation or action “serves no legitimate government purpose.” *N. Pacifica LLC v.*
16 *City of Pacifica*, 526 F.3d 478, 484 (9th Cir. 2008). Such a claim must be grounded in the wrongful
17 interference with a property interest through arbitrary regulation. *Del Monte Dunes at Monterey, Ltd. v.*
18 *City of Monterey*, 920 F.2d 1496, 1508 (9th Cir. 1990).

19 59. Under California law, the County may enforce ordinances through administrative fines
20 and penalties. Cal. Gov’t Code § 53069.4(a)(1). But it can only levy property liens to recover the actual
21 costs of abatement and is prohibited from using a lien as a collection mechanism for such fines or
22 penalties. *Mechammil v. City of San Jacinto*, 653 F. Appx. 562, 565 (9th Cir. 2016).

23 60. Section 14-12.016(b) provides that “[t]he amount of any unpaid final administrative fine,
24 plus interest, plus any other costs as provided in this chapter, may be declared a lien on any real property
25 owned by the owner within the county against whom an administrative penalty has been imposed.” The
26 County Code does not define what fees or costs constitute an “administrative fine.” It further provides:
27 “The lien will be collected at the same time and in the same manner as county taxes are collected, and
28 are [sic] subject to the same penalties and the same procedure and sale in case of delinquency as

1 provided for ordinary county taxes.” § 14-12.016(b)(3).

2 61. In *Mechammil*, the Ninth Circuit considered whether a similar provision authorized
3 municipalities “to impose a special assessment or attach a lien to real property to collect fines or
4 penalties for municipal ordinance violations.” 653 F. App’x at 563. Like Section 14-12.016(b), the
5 ordinance at issue in that case allowed the city to “place a lien on property that is the subject of a citation
6 if the citation has been issued to the current property owner of record” and collect “the amount of the
7 proposed lien” “as a special assessment at the same time and in the same manner as property taxes are
8 collected.” *Id.* The Court concluded that these provisions were inconsistent with California law, which
9 prohibits municipalities from “collect[ing] nuisance fines or penalties by attaching a lien or imposing an
10 assessment.” *Id.* at 564-65.

11 62. Mr. Luks has suffered an ongoing injury to his property interest due to the imposition of a
12 lien on his real property in the amount of \$4,300 for erecting signs on his private property. The County’s
13 action in imposing this lien is prohibited by California law.

14 63. There can be no “legitimate” exercise of the County’s power that conflicts with the
15 state’s general laws. Cal. Const. art. XI, § 7. As such, the Defendant’s actions are arbitrary and
16 illegitimate and constitute a violation of Mr. Luks’s substantive due process rights.

17 PRAYER FOR RELIEF

18 Based on the foregoing, Plaintiff respectfully requests that the Court issue the following relief:

19 1. Declare that the certain provisions of the Sign Ordinance of Contra Costa County,
20 specifically Sections 88-6.608(b), 88-6.606, 88-6.416(d)(3) and 88-6.416(e), as well as Section 88-6.402
21 (to the extent that it purports to regulate signs on private property) violate the First Amendment of the
22 U.S. Constitution and Article 1, Section 2 of the California Constitution;

23 2. Declare that the Sign Ordinance of Contra Costa County, specifically Sections 88-
24 6.608(b), 88-6.606, 88-6.416(d)(2) and (d)(3), 88-6.416(e), and 88-6.212(q) as well as Section 88-
25 6.402 (to the extent that it purports to regulate signs on private property) are void and unenforceable
26 under the Fourteenth Amendment of the U.S. Constitution and Article I, Section 7 of the California
27 Constitution;

28 3. Issue a preliminary and permanent injunction prohibiting the County from enforcing the

1 Sign Ordinance of Contra Costa County, specifically Sections 88-6.608(b), 88-6.606, 88-6.416(d)(3),
2 88-6.416(d)(3), 88-6.416(e), and 88-6.212(q), and prohibiting the County from enforcing Section 88-
3 6.402 to regulate signs on private property, and prohibiting the County from issuing any citations under
4 these sections;

5 4. Issue a preliminary and permanent injunction ordering that the County promptly remove
6 the lien placed on Mr. Luks’s property resulting from the fine arising from his alleged violation of the
7 Ordinance, which he has already paid;

8 5. Award Plaintiff compensatory damages in the amount of \$4,300;

9 6. Award Plaintiff reasonable attorneys’ fees pursuant to 42 U.S.C. § 1988, 42 U.S.C.
10 § 12205, Cal. Civ. Code § 52, and Cal. Civ. Proc. Code § 1021.5; and

11 7. Order such other and further relief as the Court deems just and proper.
12

13 Dated: May 14, 2026

Respectfully submitted,

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15 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
16 OF NORTHERN CALIFORNIA, INC.

17 /s/ Shaila V. Nathu

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