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12 UNITED STATES DISTRICT COURT

13 SOUTHERN DISTRICT OF CALIFORNIA

14 SARA DUVALL,

15 Plaintiff,

16 vs.

17 CITY OF SAN DIEGO,

18 Defendant.

19 Case No.: '26CV1112 AGS BJW

20 COMPLAINT FOR
21 DECLARATORY RELIEF,
22 INJUNCTIVE RELIEF, &
23 DAMAGES

24 AND

25 DEMAND FOR JURY TRIAL.

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1
2 **INTRODUCTION**

- 3 1. Local San Diego artist Sara Duvall seeks to exercise her rights to
4 free speech and free expression by sharing her artwork with the
5 public at Balboa Park, and at other traditional public forums
6 within the City of San Diego—activities that are protected by the
7 First Amendment to the U.S. Constitution and Article I, Section 2
8 of the California Constitution.
9
- 10 2. Defendant City of San Diego has cited and fined Ms. Duvall twice
11 in the last 18 months for showing her artwork in Balboa Park,
12 unilaterally determining that she is *not* a “visual artist” engaging
13 in free speech or expressive activities (pursuant to San Diego
14 Municipal Code § 63.0501, *et seq.*), but instead that her artwork is
15 a “handcraft” (see San Diego Municipal Code § 63.0502) with no
16 expressive purpose and thus she is a “sidewalk vendor” (pursuant
17 to San Diego Municipal Code § 36.0101, *et seq.*) not entitled to full
18 First Amendment protections.
19
- 20 3. This suit seeks declaratory and injunctive relief to protect the
21 First Amendment rights of Ms. Duvall and other artists within the
22 City of San Diego.
23
- 24 4. It also seeks to recover damages relating to the defense of
25 repeated administrative citations and fines resulting from the
26 unconstitutional application of the City of San Diego’s municipal
27 ordinances to Ms. Duvall.
28

1 **THE PARTIES**

2 5. Plaintiff Sara Duvall is a life-long artist and resident of the City of
3 San Diego.

4 6. Defendant City of San Diego is a municipality located in San
5 Diego County, within the Southern District of California.
6

7 **JURISDICTION AND VENUE**

8 7. This Court has jurisdiction to hear this matter pursuant to
9 28 U.S.C. §§ 1331, 1343(a)(3) & (4).

10 8. Venue is appropriate in this Court because all the events that give
11 rise to this suit occurred in San Diego County, California.
12 28 U.S.C. § 1391.

13 9. This Court has authority to grant the requested declaratory and
14 injunctive relief under 28 U.S.C. §§ 2201, 2202, and 1343; Fed. R.
15 Civ. P. 57 and 65; and the general legal and equitable powers of
16 the Court.

17
18 10. Prior to filing this complaint, Ms. Duvall filed a claim for damages
19 pursuant to California Gov't Code § 900.4, *et seq.* with the City of
20 San Diego on August 5, 2025.

21 11. The City acknowledged receipt of her claim on the following day.

22 12. In her claim, Ms. Duvall asked the City to change the municipal
23 code “to make clear that an artist’s original work is protected by
24 the First Amendment, even if it is mixed media, even if it is
25 jewelry or pottery or another medium so long as it has *an*
26 *expressive purpose.*”
27

28 13. The City declined to act and denied her claim on February 9, 2026.

1 14. This suit is timely filed.

2 **RELEVANT STATUTORY PROVISIONS**

3 15. In early 2024, Defendant City of San Diego enacted Ordinance No.
4 21775.

5 16. Ordinance No. 21775 added a regulation called “Expressive
6 Activity on Public Property” (San Diego Municipal Code § 63.0501,
7 *et seq.*) to the Municipal Code.
8

9 17. Ordinance No. 21775 also modified Defendant City’s existing
10 “Sidewalk Vending Regulations” (San Diego Municipal Code
11 § 36.0101, *et seq.*).

12 18. The 2024 updates to the municipal code delineated different sets
13 of rules that apply to those who are engaging in “expressive
14 activit[ies]” as opposed to those who are “sidewalk vending.”

15 19. As a part of 2024 enactment, Defendant City attempted to define
16 what constitutes “expressive activity” and differentiate it from
17 what constitutes “sidewalk vending.”
18

19 20. If an individual is engaging in an “expressive activity,” their
20 conduct is governed by San Diego Municipal Code § 63.0501, *et*
21 *seq.*, the “Expressive Activity on Public Property” Ordinance.

22 21. If an individual is engaging in a “sidewalk vending,” their conduct
23 is governed by San Diego Municipal Code § 36.0101, *et seq.* the
24 “Sidewalk Vending Regulations.”

25 22. In broad strokes, those who are engaging in an “expressive
26 activity” (including “visual artists” showing and selling their own
27

1 artwork) do not need to obtain permits nor pay any fees *prior to*
2 engaging in their expressive activities.

3 23. In contrast, “sidewalk vendors” are required to: (a) apply and pay
4 for annual permits from the City of San Diego to sell their food or
5 merchandise, (b) obtain annual business tax certificates, (c) pay
6 SB 1186 fees, and (d) pay for a photo ID. *See* “Frequently Asked
7 Questions, Sidewalk Vending,” The City of San Diego, *available at*
8 <https://www.sandiego.gov/sidewalk-vending/faqs>.
9

10 24. “Sidewalk vendors” are also not allowed in certain popular and
11 beloved public forums (e.g., Balboa Park, Mission Bay Park, etc.)
12 throughout the City of San Diego during certain extended times of
13 the year (e.g., from Memorial Day weekend through Labor Day
14 weekend). *See* San Diego Municipal Code §§ 36.0102, 36.0106(e),
15 36.0107(i).

16 25. In contrast, these permit requirements, location bans, and other
17 rules contained within Defendant City’s “Sidewalk Vending
18 Regulations” *do not apply* to “visual artists.” *See generally* San
19 Diego Municipal Code § 63.0501, *et seq.*

20 26. These “Sidewalk Vending Regulations” also *do not apply* to “visual
21 artists” engaged in the sale of their artwork in traditional public
22 forums in the City of San Diego. *Id.*

23
24 **I. Defendant City of San Diego recognizes that the City’s**
25 **parks, plazas, and sidewalks are traditional public**
26 **forums used by the community for expressive activity.**

27 27. As part of the “Expressive Activity on Public Property” Ordinance,
28 Defendant City of San Diego acknowledges that “[c]ity parks,

1 *plazas*, and *sidewalks* have served as a traditional forum for
2 performances, visual artists, and other *expressive activity*.” See
3 San Diego Municipal Code § 63.0501(a) (emphasis in original).

4 28. Defendant City of San Diego defines “expressive activity” as
5 including: “the sale of artwork” and describes “*visual art* sold by
6 the artist, including prints of the artist’s *visual art*” as “inherently
7 communicative in nature.” See San Diego Municipal Code
8 § 63.0502 (emphasis in original).

9
10 29. Defendant City of San Diego excludes “the sale or creation of
11 *handcrafts*” from “expressive activity.” See San Diego Municipal
12 Code § 63.0502 (emphasis in original).

13 30. “*Handcrafts*” are defined by Defendant City as “objects made
14 either by hand or with the help of devices used to shape or produce
15 the objects through such methods as weaving, carving, stitching,
16 sewing, lacing, welding, or beading, including necklaces, earrings,
17 bracelets, rings, and other jewelry used or intended for personal
18 adornment, pottery, silver or metal work, leather goods, and
19 trinkets.” See San Diego Municipal Code § 63.0502 (emphasis in
20 original).

21
22 31. The municipal code goes on to declare that “*Handcrafts* are objects
23 not likely to communicate a message, idea, or concept to others,
24 are often mass-produced or produced with limited variation, and
25 often have functional utility apart from any communicative value
26 they might have.” See San Diego Municipal Code § 63.0502
27 (emphasis in original).

1 **II. Defendant City of San Diego provides no training**
2 **whatsoever to its Park Rangers on free speech**
3 **protections, little training on what constitutes**
4 **“expressive activities” subject to First Amendment**
5 **protections, and is deliberately indifferent to ongoing**
6 **constitutional violations by its agents.**

7 32. Defendant City of San Diego provides no training on First
8 Amendment free-speech protections to its Park Rangers.

9 33. Defendant City of San Diego expects Park Rangers to have
10 received training on free speech rights *prior to* being hired by the
11 Parks and Recreation Department.

12 34. Defendant City of San Diego has provided only minimal training
13 to its Park Rangers on First Amendment free expression
14 protections *prior to* the passage of Ordinance No. 21775.

15 35. In February 2023, a San Diego artist wrote to the Director of San
16 Diego Parks and Recreation complaining of a “lack of training” for
17 the Park Rangers related to First Amendment protections and
18 creative expression by artists.

19 36. In July 2023, a different San Diego artist wrote to the Director of
20 San Diego Parks and Recreation imploring him to: “Please help
21 educate [a specific San Diego Park Ranger] and the other rangers
22 on first amendment rights and change their whole approach to
23 actually make the park a better place, not a citation and
24 harassment war zone for peaceful and creative people.”

25 37. Prior to the passage of Ordinance No. 21775, Defendant City of
26 San Diego issued a “Staff Report” on February 6, 2024, indicating
27 that the “Mayor’s office has expressed commitment to train law
28

1 enforcement and City staff involved in enforcing these regulations
2 to ensure fair and appropriate application of the new regulations.”

3 38. But, despite this “commitment to train” and despite knowledge of
4 prior complaints about lack of First Amendment training for Park
5 Rangers, Defendant City of San Diego provided no First
6 Amendment training to Park Rangers following passage of
7 Ordinance No. 21775 (in February 2024), and before Ms. Duvall’s
8 citations in August 2024 and May 2025 (described *infra*).
9

10 **III. Sara Duvall is a “visual artist”: she is a San Diegan who**
11 **uses her artwork to communicate her personal and**
12 **political beliefs, her lived experiences, and to explore**
13 **color and form.**

14 39. Sara Duvall is a San Diego native and a local artist:





40. Ms. Duvall has been creating art, sharing her art with the public, and teaching art for many years.

41. Ms. Duvall has trained in art locally.

COMPLAINT - 8

1 42. She has also studied art internationally:
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13 43. Ms. DuVall's artwork has been shown in galleries:
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MEET THE ARTISTS

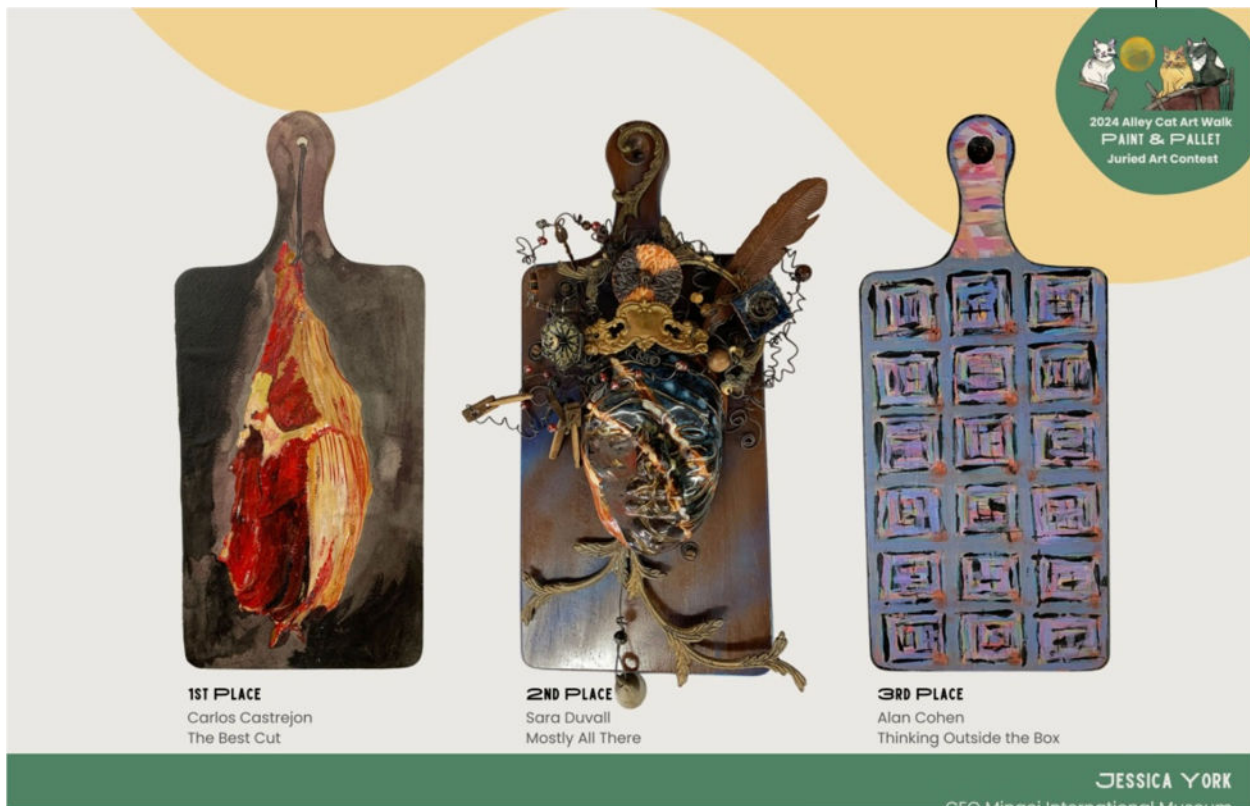
JOIN US FOR A STUDIO OPEN HOUSE AND ART GALLERY SHOW, WHERE YOU CAN PERSONALLY MEET THESE TALENTED ARTISTS. ENJOY A PLEASANT EVENING FILLED WITH CONVERSATIONS AND REFRESHMENTS AS YOU EXPLORE THE WORLD OF ART.

SATURDAY, MAY 6, 2023
5PM-8PM

GET CENTERED CLAY & ART STUDIO
8186 CENTER ST, LA MESA CA
WWW.GETCENTEREDCLAY.COM

		
MARY MOREAU	SARA DUVALL	TARA SLATTTON-GARDEN

44. She has received awards for her art as well:



COMPLAINT - 11

1 45. Ms. Duvall's art is an expression of her beliefs and lived
2 experiences:
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46. She also explores her thoughts on color and form through her artwork. *Cf. White v. City of Sparks*, 500 F.3d 953, 956 (9th Cir. 2007) (“[I]t is clear that [the artist’s] self-expression through

1 painting constitutes expression protected by the First
2 Amendment. In painting, an artist conveys his sense of form,
3 topic, and perspective. A painting may express a clear social
4 position, as with Picasso's condemnation of the horrors of war in
5 *Guernica*, or may express the artist's vision of movement and color
6 Any artist's original painting holds potential to 'affect public
7 attitudes,' . . . by spurring thoughtful reflection in and discussion
8 among its viewers. So long as it is an artist's self-expression, a
9 painting will be protected under the First Amendment, because it
10 expresses the artist's perspective".) (internal quotations and
11 citations omitted).

13 47. Ms. Duvall creates some art in miniature as an expression of her
14 beliefs that all humans should work to minimize their impact on
15 the Earth:



1 48. When Ms. Duvall shows her art in Balboa Park, it often sparks
2 conversations with park goers about their own experiences with
3 art, why she does work in miniature, and how the art is created.

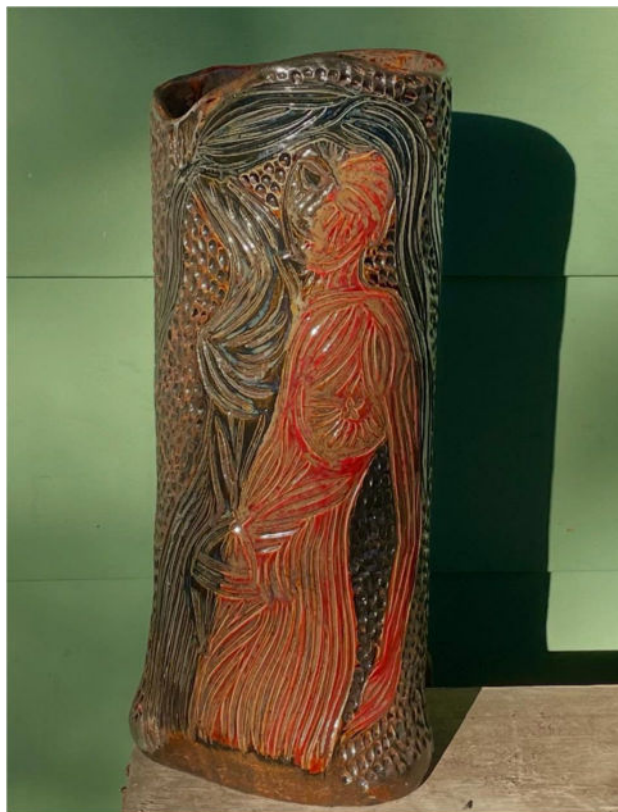
4 49. Ms. Duvall also has a neurological condition called synesthesia.


5 50. Sometimes, she uses her art to explore this experience.


6 51. Specifically, Ms. Duvall creates art involving the human form
7 cleaved into two halves, the sensation she experiences with
8 synesthesia:
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 **ceramics.by.sara** ⋮

 **ceramics.by.sara** Tall carved vase.
Many of my pieces include a female form decorated differently on the left and right. Fun fact: it's cause I'm weird. I have synesthesia.... Where sounds, tastes, touch, sight (colors) and feelings kinda overlap. And, I sense everything differently on my left and my right. Hard to explain, but when I was little, I thought everyone had this... as we have names for them....Left and Right

2w

 **grayareamkts** 🥰 ❤️

2w 1 like Reply

 **art_to_thrive** 🔵 🔥 🔥 🔥 ❤️

2w 1 like Reply

1 52. Ms. Duvall also uses her art to explore language, politics, and to
2 express her beliefs and values:
3



23 53. All of her artwork is “visual art.”

24 54. Ms. Duvall has been sharing her artwork in Balboa Park for
25 years.

26 55. Before the passage of the 2024 revisions to the San Diego
27 Municipal Code, during enforcement encounters, Defendant City

1 of San Diego Park Rangers would typically ask Ms. Duvall if the
2 visual art she was showing was her own original artwork.

3 56. After explaining that each item is unique, her own work of art,
4 made by her hand, and containing her own original designs,
5 perspective, and selection of colors, San Diego Park Rangers
6 would allow her to continue to show and sell her artwork—just as
7 they allow her fellow artists to do to this day.
8

9 57. But, since the 2024 revision to the San Diego Municipal Code,
10 Ms. Duvall has been singled out from other artists in Balboa Park
11 and cited and fined—repeatedly—by San Diego Park Rangers who
12 no longer consider her to be a “visual artist.”

13 58. Instead of treating Ms. Duvall as a “visual artist” engaged in
14 protected speech or “*expressive activity*” (see San Diego Municipal
15 Code § 63.0501(a)), Defendant City of San Diego now considers her
16 a “sidewalk vendor” who makes “handcrafts.”

17 59. Thus, even though Defendant City of San Diego defines
18 “expressive activity” as including: “the sale of artwork” and
19 describes “*visual art* sold by the artist” as “inherently
20 communicative in nature” (see San Diego Municipal Code
21 § 63.0502 (emphasis in original)), and also defines “[*v*]isual art” as
22 including “sculptures” (*id.*), San Diego Park Rangers have
23 erroneously determined that Ms. Duvall is no longer a visual
24 artist.
25

26 //

27 //

1 **IV. Despite Ms. Duvall being a “visual artist” sharing her**
2 **own original, expressive artwork and political speech,**
3 **Defendant City of San Diego defines her artwork as**
4 **“handcrafts” not entitled to First Amendment**
5 **protections—repeatedly citing and fining her.**

6 60. On August 2, 2024, Ms. Duvall was cited and fined for various
7 violations of Defendant City of San Diego’s “Sidewalk Vending
8 Regulations”:

9 **§36.103 Vending Permit Required**, (a) No *vending* shall
10 take place except in accordance with the provisions of this
11 Division or when otherwise authorized by the City. (b) All
12 *sidewalk vendors* shall obtain a *vending permit* prior to
13 *vending* on any *sidewalk*. Permits shall be issued by the City
14 Manager or designee, unless otherwise specified in the Code.
15 (Emphasis in original.)

16 **§36.0107 Vending in Parks, Plazas, and Beach Areas**,
17 The following provisions apply in *parks, plazas, and beach*
18 *areas*. Where the following provisions are more restrictive
19 than those set forth in section 36.0106, *sidewalk vendors*
20 shall comply with the more restrictive provisions: (g)
21 *Vending* activities are prohibited in the following locations in
22 Balboa Park: (1) within 25 feet of: El Prado. . . & (i)
23 *Vending* is prohibited during the *summer moratorium* in
24 Balboa Park (Emphasis in original.)

25 61. On August 2, 2024, Ms. Duvall was showing original, expressive
26 “visual art.”

27 62. Some of the “visual art” Ms. Duvall was showing that day
28 expressed her personal, political beliefs.

63. This “visual art” included speech expressing support for LGBTQ+
pride, both through colors and words:

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64. This “visual art” also included speech expressing support for gun control and opposition to book bans:



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2 65. Through Ms. Duvall’s original, unique artwork expressing support
3 for LGBTQ+ rights and against book bans, Ms. Duvall was
4 engaging in protected political speech on August 2, 2024.

5 66. Some “visual art” shown by Ms. Duvall expressed her respect for
6 nature and the natural world around us:
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17 67. With each original, unique work of art Ms. Duvall was sharing in
18 Balboa Park on August 2, 2024, she was engaging in protected
19 First Amendment activity.
20

21 68. Other “visual art” were personal expressions and explorations of
22 design, color, and form:
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69. Ms. Duvall shared her artwork in miniature with the public to spark conversations about the artists’ role in the world and impact on the environment.

70. Ms. Duvall’s artwork that does not contain written words is no less protected by the First Amendment than her work that does, as “the Constitution looks beyond written or spoken words as mediums of expression.” *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 569 (1995).

71. The Constitution does not require “a narrow, succinctly articulable message” as a precondition of First Amendment protection. *Id.*

1 72. The Supreme Court has noted that to hold otherwise would mean
2 that the First Amendment “would never reach the unquestionably
3 shielded painting of Jackson Pollock, music of Arnold Schönberg,
4 or Jabberwocky verse of Lewis Carroll.” *Id.*

5 **V. Defendant City of San Diego ignores Ms. Duvall’s appeal**
6 **of her citation for months, leaving Ms. Duvall in limbo**
7 **and afraid to exercise her First Amendment right to**
8 **share her political beliefs and her artwork.**

9 73. Ms. Duvall filed her notice of appeal on August 7, 2024, just five
10 days after receiving her citation, well within the required time
11 period.

12 74. Defendant City did not confirm receipt of her notice of appeal.

13 75. Since there is limited time to lodge an appeal (10 calendar days),
14 on August 9, 2024, Ms. Duvall again contacted Defendant City to
15 confirm receipt of her notice of appeal.

16 76. Again, no response was received.

17 77. On August 12, 2024, Ms. Duvall contacted Defendant City once
18 more to confirm receipt of her notice of appeal.

19 78. Finally, on August 13, 2024, Defendant City confirmed receipt of
20 Ms. Duvall’s notice of appeal for her August 2, 2024 citation.

21 79. Ms. Duvall received no further information about her appeal for
22 over eight months.

23 80. During this time, Ms. Duvall nervously awaited resolution of her
24 appeal.
25

26 //

27 //

1 81. She wanted to continue to show her art in Balboa Park, but
2 without a resolution to her appeal, Ms. Duvall was reluctant to
3 return to the Park with her art.

4 82. Ms. Duvall repeatedly refrained from showing her art, expressing
5 her political opinions, and engaging with the public (and thus
6 exercising her First Amendment rights) in Balboa Park because of
7 the uncertainty surrounding the constitutionality of the
8 “handcrafts” definition and the “Sidewalk Vending Regulations” as
9 applied to her art.
10

11 83. Ms. Duvall had previously been informed by San Diego Park
12 Rangers that they, in addition to citing and fining her, could also
13 seize and impound her art.

14 84. She also feared returning to Balboa Park to show her art because
15 of these threats of impoundment.

16 85. Ms. Duvall worried that because of its delicate and breakable
17 nature, her art could be severely damaged or destroyed if seized
18 and impounded.

19 86. Further, Defendant City’s impoundment policy appears to be itself
20 unlawful.
21

22 87. In January 2026, a California state appellate court reversed a
23 trial court’s refusal to grant a preliminary injunction against the
24 City of San Diego’s policy of impounding property as a penalty for
25 violations of its “Sidewalk Vending Regulations,” finding that the
26 City’s policy of impoundment likely violates state law. *See*
27 *Mustaqeem v. City of San Diego*, No. D085750, 2026 WL 174947,
28

1 at *10 (Cal. Ct. App. Jan. 22, 2026) (“Based on our *de novo* review
2 of the underlying statutory analysis issue, we conclude there is a
3 substantial likelihood that Mustaqeem will succeed on the merits
4 of his claim that the City does not have the authority to impound
5 sidewalk vendor equipment and/or goods under section 36.0111.”).

6
7 88. Ultimately, with no resolution in sight for her appeal, Ms. Duvall
8 returned to Balboa Park to show her art.

9 **VI. With her appeal still unresolved after eight months,
10 Ms. Duvall returns to Balboa Park, but is again cited and
11 fined by Defendant City of San Diego—she files yet
12 another appeal.**

13 89. On May 9, 2025, Ms. Duvall was again cited for showing her
14 original, unique works of art in Balboa Park:



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COMPLAINT - 26



90. The May 9, 2025 citation listed the following violations:

§36.103 Vending Permit Required, (a) No *vending* shall take place except in accordance with the provisions of this Division or when otherwise authorized by the City. (b) All *sidewalk vendors* shall obtain a *vending permit* prior to *vending* on any *sidewalk*. Permits shall be issued by the City Manager or designee, unless otherwise specified in the Code. (Emphasis in original.)

1 **§36.0107 Vending in Parks, Plazas, and Beach Areas**, The
2 following provisions apply in *parks, plazas, and beach areas*.

3 Where the following provisions are more restrictive than those set
4 forth in section 36.0106, *sidewalk vendors* shall comply with the
5 more restrictive provisions: (g) *Vending* activities are prohibited in
6 the following locations in Balboa Park: (1) within 25 feet of: El
7 Prado. . . .

8 91. On May 12, 2025, Ms. Duvall informed the City that she would be
9 appealing her second citation.

10 92. The City did not respond.

11 93. Because there is limited time to pursue an appeal, on May 14,
12 2025, Ms. Duvall again contacted Defendant City to confirm her
13 notice of appeal regarding her May 9, 2025 citation.

14 94. The City again did not confirm receipt of her notice of appeal.

15 95. Ms. Duvall yet again contacted Defendant City to confirm receipt
16 of her notice of appeal on May 19, 2025.

17 96. Finally on May 22, 2025, the City confirmed receipt of her notice
18 of appeal.

19 97. Both of her citation appeals were timely filed.

20 98. While Ms. Duvall’s appeals were pending, the Ninth Circuit found
21 the portions of Defendant City’s Ordinance No. 21775 prohibiting
22 the teaching of yoga without a permit to be a content-based
23 restriction on speech. *Hubbard v. City of San Diego*, 139 F.4th
24 843, 851 (9th Cir. 2025) (describing the “content-based nature of”
25 Ordinance No. 21775 as “obvious”) (internal quotation marks and
26 citation omitted).
27

1 99. The Court also found that Defendant City’s Ordinance No. 21775
2 “does not qualify as a valid time, place, and manner restriction,
3 and is presumptively unconstitutional.” *Hubbard v. City of San*
4 *Diego*, 139 F.4th 843, 852 (9th Cir. 2025).

5 **VII. Ms. Duvall ultimately loses her appeals when the**
6 **Administrative Hearing Officer indicates he cannot**
7 **consider Ms. Duvall’s constitutional claims in the**
8 **determination of her appeal.**

9 100. Finally on November 13, 2025, Ms. Duvall’s August 2024 and May
10 2025 citations were heard by an Administrative Hearing Officer.

11 101. Ms. Duvall argued that her artwork was protected by the First
12 Amendment and that she should be treated as other “visual
13 artists” within the City of San Diego are treated (and as she had
14 been treated before the 2024 revisions to the municipal code).

15 102. Ms. Duvall argued that considering her original artwork to be a
16 “handcraft” and applying the “Sidewalk Vending Regulations” to
17 her artwork resulted in a violation of her First Amendment rights.

18 103. Defendant City of San Diego took the position that Ms. Duvall’s
19 artwork is a “handcraft” not worthy of full First Amendment
20 protections.

21
22 104. Defendant City of San Diego argued Ms. Duvall’s artwork was
23 non-expressive “handcrafts” even if it contained explicit speech
24 (i.e., expressing political opinions such as “Say Gay” or “Ban Guns,
25 Not Books”) and thus subject to the “Sidewalk Vending
26 Regulations.”

1 105. Ultimately, the Administrative Hearing Officer found he lacked
2 the power to consider Ms. Duvall’s constitutional claims.

3 106. He found that such “constitutional challenges . . . are not properly
4 addressed in an administrative hearing.”

5 107. Accordingly, on November 23, 2025, the Administrative Hearing
6 Officer issued an order upholding the citations and ordering
7 Ms. Duvall to pay the fines (\$750) to the City of San Diego.
8

9 108. Ms. Duvall paid her fines (under protest) as ordered to the City of
10 San Diego.

11 109. Ms. Duvall seeks constitutional relief before this Court to enable
12 her to engage in her First Amendment speech and expression.

13 110. Ms. Duvall seeks to continue to share her “visual art” in
14 traditional public forums through the City of San Diego.

15 111. She has not been sharing her “visual art” out of fear of being cited
16 and fined yet again by Defendant City of San Diego.
17

18 112. She has not been sharing her “visual art” out of fear of having her
19 art impounded and damaged by Defendant City of San Diego.

20 113. Ms. Duvall seeks to be treated as other “visual artists” are treated
21 within the City of San Diego and subjected to the “expressive
22 activity” regulations not the “Sidewalk Vending Regulations.”

23 //

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FIRST CLAIM – Violation of 42 U.S.C. § 1983 (Defendant City’s “Sidewalk Vending Regulations” and Ordinance No. 21775 are an Unconstitutional Official Policy As-Applied to Ms. Duvall’s Original Artwork Containing *Protected Speech* Under the First and Fourteenth Amendments).

114. Ms. Duvall hereby alleges and incorporates by reference each and every allegation contained in the preceding and subsequent paragraphs of this Complaint as if pled expressly herein.

115. Ms. Duvall has a First Amendment right to engage in protected speech within public forums.

116. Ms. Duvall’s artwork is an expression of her beliefs and lived experiences.

117. Some of Ms. Duvall’s artwork explores language and some of her artwork uses words to express support for her political beliefs.

118. Some of the artwork Ms. Duvall has been penalized for showing includes her political statement: “Say Gay.”

119. Some of the artwork Ms. Duvall has been penalized for showing includes her political statement: “Ban Guns, Not Books.”

120. Ms. Duvall is attempting to exercise her First Amendment right to free speech when she shares her political artwork in traditional public forums within the City of San Diego.

121. Defendant City of San Diego is violating Ms. Duvall’s First and Fourteenth Amendment rights by citing and fining her for engaging in protected speech in a public forum.

1 122. Defendant City of San Diego is violating Ms. Duvall’s First and
2 Fourteenth Amendment rights by refusing to treat her as other
3 artists/speakers within the City of San Diego are treated.

4 123. Defendant City of San Diego is violating Ms. Duvall’s First and
5 Fourteenth Amendment rights by declaring her original political
6 artwork to be non-expressive “handcrafts” unworthy of First
7 Amendment protections.
8

9 124. The “First Amendment doctrine does not disfavor nontraditional
10 media of expression.” *Comedy III Prods., Inc. v. Gary Saderup,*
11 *Inc.*, 25 Cal. 4th 387, 399 (2001).

12 125. That is, Ms. Duvall’s political speech using clay as a medium is no
13 less protected under the First Amendment than written or spoken
14 words.

15 126. Ms. Duvall’s political speech is no less protected under the First
16 Amendment if it is expressed on jewelry, pins, or magnets.

17 127. San Diego Park Rangers, in citing, fining, and threatening
18 Ms. Duvall with impoundment, are acting under color of law.

19 128. In citing, fining, and threatening Ms. Duvall with impoundment,
20 San Diego Park Rangers are acting pursuant to an expressly
21 adopted municipal ordinance of the Defendant City of San Diego.

22 129. The Defendant City of San Diego’s “Street Vending Regulations”
23 and the “handcrafts” definition of Ordinance No. 21775 are
24 unconstitutional as-applied to Ms. Duvall’s speech and caused the
25 deprivation of her rights by San Diego Park Rangers.
26
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1 130. That is, the Defendant City of San Diego’s unconstitutional
2 municipal ordinance, as-applied to Ms. Duvall’s political speech, is
3 so closely related to the deprivation of her rights as to be the
4 moving force that caused the ultimate injury.

5 131. Defendant City of San Diego is violating Ms. Duvall’s First and
6 Fourteenth Amendment rights by penalizing her (through
7 citations, fines, and threats of impoundment) for her protected
8 speech activities in San Diego’s traditional public forums.
9

10 132. Defendant City of San Diego “can be sued directly under § 1983
11 for monetary, declaratory, or injunctive relief where . . . the action
12 that is alleged to be unconstitutional implements or executes a[n]
13 . . . ordinance.”¹

14 133. Defendant City of San Diego is violating or imminently will violate
15 the First Amendment by enforcing the “Sidewalk Vending
16 Regulations” of Ordinance No. 21775 against Ms. Duvall’s
17 protected speech.
18

19 134. Ms. Duvall suffered damages directly resulting from her citation
20 and fines in an amount to be proven at trial.

21 135. Ms. Duvall’s damages include, but are not limited to, the fines she
22 has paid, her attorneys’ fees, her inability to freely show her
23 political art in San Diego’s public forums as well as emotional
24 damages including stress and anxiety.
25

26 ¹ *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690
27 (1978).

1 **SECOND CLAIM – Violation of 42 U.S.C. § 1983 (Defendant City’s**
2 **“Sidewalk Vending Regulations” and Ordinance No. 21775 are**
3 **an Unconstitutional Official Policy As-Applied to Ms. Duvall’s**
4 ***Original, Expressive Artwork Under the First and Fourteenth***
5 **Amendments).**

6 136. Ms. Duvall hereby alleges and incorporates by reference each and
7 every allegation contained in the preceding and subsequent
8 paragraphs of this Complaint as if pled expressly herein.

9 137. Ms. Duvall’s artwork is an expression of her beliefs and lived
10 experiences.

11 138. Ms. Duvall explores color and form through her artwork.

12 139. Ms. Duvall’s art in miniature is an expression of her beliefs that
13 humans should work to minimize their impact on the Earth.

14 140. Ms. Duvall’s artwork exploring the cleft human form is an
15 expression of her experience with the neurological condition,
16 synesthesia.

17 141. Ms. Duvall is attempting to exercise her First Amendment right to
18 free expression when she shares her artwork in traditional public
19 forums within the City of San Diego.

20 142. Defendant City of San Diego is violating Ms. Duvall’s First and
21 Fourteenth Amendment rights by citing and fining her for
22 engaging in an “expressive activity.”

23 143. Defendant City of San Diego is violating Ms. Duvall’s First and
24 Fourteenth Amendment rights by refusing to treat her as other
25 “visual artists” within the City of San Diego are treated.
26

1 144. Defendant City of San Diego is violating Ms. Duvall’s First and
2 Fourteenth Amendment rights by declaring her original,
3 expressive artwork to be non-expressive “handcrafts” not worthy
4 of First Amendment protections.

5 145. San Diego Park Rangers, in citing, fining, and threatening
6 Ms. Duvall with impoundment, are acting under color of law.

7 146. In citing, fining, and threatening Ms. Duvall with impoundment,
8 San Diego Park Rangers are acting pursuant to an expressly
9 adopted municipal ordinance of the Defendant City of San Diego.

10 147. The Defendant City of San Diego’s “Street Vending Regulations”
11 and “handcrafts” definition of Ordinance No. 21775 are
12 unconstitutional as-applied to Ms. Duvall’s original expressive art
13 and caused the deprivation of her rights by San Diego Park
14 Rangers.

15 148. That is, the Defendant City of San Diego’s unconstitutional
16 municipal ordinance as-applied to Ms. Duvall’s expressive conduct
17 is so closely related to the deprivation of her rights as to be the
18 moving force that caused the ultimate injury.

19 149. Defendant City of San Diego is violating Ms. Duvall’s First and
20 Fourteenth Amendment rights by penalizing her (through
21 citations, fines, and threats of impoundment) for her expressive
22 activities in San Diego’s traditional public forums.

23 150. Defendant City of San Diego “can be sued directly under § 1983
24 for monetary, declaratory, or injunctive relief where . . . the action
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1 that is alleged to be unconstitutional implements or executes a[n] .
2 . . . ordinance.”²

3 151. Defendant City of San Diego is violating or imminently will violate
4 the First Amendment by enforcing the “Sidewalk Vending
5 Regulations” of Ordinance No. 21775 against Ms. Duvall’s
6 protected expression.
7

8 152. Ms. Duvall suffered damages directly resulting from her citation
9 and fines in an amount to be proven at trial.

10 153. Ms. Duvall’s damages include, but are not limited to, the fines she
11 has paid, her attorneys’ fees, her inability to freely show her art in
12 San Diego’s public forums as well as emotional damages including
13 stress and anxiety.

14 **THIRD CLAIM – Violation of 42 U.S.C. § 1983 (Unconstitutional**
15 **Official Policy Under the First and Fourteenth**
16 **Amendments/Due Process Clause-Vagueness).**

17 154. Ms. Duvall hereby alleges and incorporates by reference each and
18 every allegation contained in the preceding and subsequent
19 paragraphs of this Complaint as if pled expressly herein.

20 155. The definition of “handcrafts” used by Defendant City of San
21 Diego in its municipal code is unconstitutionally vague³ and
22 thereby violates the Due Process Clause of the U.S. Constitution.
23

24
25 ² *Monell*, 436 U.S. at 690.

26 ³ *See Butcher v. Knudsen*, 38 F.4th 1163, 1169 (9th Cir. 2022) (“When a
27 law implicating free speech is impermissibly vague, it risks repressing
28 the very discourse that the First Amendment protects and

1 156. A person of common intelligence, reading the definition of
2 “handcrafts”, would not be provided fair notice of what is
3 prohibited by the ordinance.

4 157. For example, Defendant City of San Diego’s Ordinance No. 21775
5 indicates that “handcrafts” are “*not likely* to communicate a
6 message, idea, or concept to others.” *See* San Diego Municipal
7 Code § 63.0502 (emphasis added).
8

9 158. Additionally, Defendant City of San Diego’s Ordinance No. 21775
10 indicates that “handcrafts” are “*often* mass-produced or produced
11 with limited variation.” *Id.* (emphasis added).

12 159. Defendant City of San Diego’s Ordinance No. 21775 also indicates
13 that “handcrafts” . . . “*often have a functional utility* apart from
14 any communicative value they might have.” *Id.* (emphasis added).

15 160. Ordinance No. 21775’s unconstitutionally vague descriptions of
16 what are considered unprotected “handcrafts” fails to provide
17 sufficient standards to guide enforcement by Park Rangers,
18 resulting in arbitrary and discriminatory enforcement.
19

20 161. Defendant City of San Diego Park Rangers are acting under color
21 of law when they enforce Ordinance No. 21775 against Ms. Duvall.
22

23
24 encourages.”) (citation omitted); *Høeg v. Newsom*, 652 F. Supp. 3d
25 1172, 1185 (E.D. Cal. 2023) (“Vague statutes are particularly
26 objectionable when they ‘involve sensitive areas of First Amendment
27 freedoms’ because ‘they operate to inhibit the exercise of those
28 freedoms.’”) (citations omitted).

1 162. Defendant City of San Diego Park Rangers have penalized
2 Ms. Duvall for showing and selling artwork that explicitly
3 expresses her political opinion “Say Gay” because they consider
4 them non-expressive “handcrafts.”

5 163. Defendant City of San Diego Park Rangers have penalized
6 Ms. Duvall for showing and selling artwork that expresses her
7 political opinion “Ban Guns, Not Books” because they consider
8 them non-expressive “handcrafts.”
9

10 164. The enforcement of Defendant City of San Diego’s Ordinance No.
11 21775 against Ms. Duvall shows that it reaches a substantial
12 amount of constitutionally protected speech.

13 165. Defendant City of San Diego’s definition of “handcrafts” covers all
14 “objects made . . . by hand” and does not exclude those made by
15 artists with an expressive purpose. *See* San Diego Municipal Code
16 § 63.0502 (“*Handcrafts*” are “objects made either by hand or with
17 the help of devices used to shape or produce the objects. . .”).
18

19 166. The enforcement of Defendant City of San Diego’s Ordinance No.
20 21775 against Ms. Duvall’s original sculptural “visual art” shows
21 that it reaches a substantial amount of constitutionally-protected
22 expressive conduct and as such is unconstitutionally vague.

23 167. Defendant “can be sued directly under § 1983 for monetary,
24 declaratory, or injunctive relief where . . . the action that is alleged
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1 to be unconstitutional implements or executes a[n] . . .
2 ordinance.”⁴

3 168. Defendant is violating or imminently will violate the First and
4 Fourteenth Amendments by enforcing its definition of
5 “handcrafts” against protected speech or expression.

6 169. Ms. Duvall suffered damages directly resulting from her citation
7 and fines in an amount to be proven at trial.

8 170. Ms. Duvall’s damages include, but are not limited to, the fines she
9 has paid, her attorneys’ fees, her inability to freely show her art in
10 San Diego’s public forums as well as emotional damages including
11 stress and anxiety.
12

13 **FOURTH CLAIM – Violation of 42 U.S.C. § 1983**
14 **(Unconstitutional Official Policy Under the First/Fourteenth**
15 **Amendments-Overbreadth).**

16 171. Ms. Duvall hereby alleges and incorporates by reference each and
17 every allegation contained in the preceding and subsequent
18 paragraphs of this Complaint as if pled expressly herein.

19 172. The definition of “handcrafts” used by Defendant City of San
20 Diego in its municipal code is unconstitutionally overbroad and
21 thereby violates the First Amendment free speech and free
22 expression protections of the U.S. Constitution.

23 173. Defendant City of San Diego’s definition of “handcrafts” prohibits
24 a substantial amount of constitutionally-protected speech.
25

26
27 ⁴ *Monell*, 436 U.S. at 690.

1 174. Defendant City of San Diego’s definition of “handcrafts” prohibits
2 a substantial amount of constitutionally-protected expression.

3 175. Defendant City of San Diego’s definition of “handcrafts” covers all
4 “objects made . . . by hand” and does not exclude those made by
5 artists with an expressive purpose. *See* San Diego Municipal Code
6 § 63.0502 (“*Handcrafts*” are “objects made either by hand or with
7 the help of devices used to shape or produce the objects. . .”).

8
9 176. As examples of “handcrafts,” Defendant City of San Diego includes
10 those “objects” that are “carv[ed]” as well as those that are
11 “weld[ed].” *See* San Diego Municipal Code § 63.0502.

12 177. Defendant City of San Diego also includes those “objects” that
13 include “pottery,” “metal work,” or “jewelry.” *See* San Diego
14 Municipal Code § 63.0502.

15 178. Defendant City of San Diego does not exclude from its definition of
16 “handcrafts” any “objects made . . . by hand” that include
17 constitutionally-protected speech or expression.

18
19 179. Defendant City of San Diego Park Rangers are acting under color
20 of law when they cited and fine Ms. Duvall.

21 180. Defendant City of San Diego Park Rangers have penalized
22 Ms. Duvall for showing and selling artwork that explicitly express
23 her political opinion “Say Gay” because they consider them non-
24 expressive “handcrafts.”

25 181. Defendant City of San Diego Park Rangers have penalized
26 Ms. Duvall for showing and selling artwork that express her
27

1 political opinion “Ban Guns, Not Books” because they consider
2 them non-expressive “handcrafts.”

3 182. The enforcement of Defendant City of San Diego’s Ordinance No.
4 21775 against Ms. Duvall shows that it reaches a substantial
5 amount of constitutionally-protected speech.

6 183. Defendant City of San Diego’s Ordinance No. 21775 also fails to
7 provide sufficient standards to guide enforcement by Park
8 Rangers, resulting in arbitrary and discriminatory enforcement.

9 184. The enforcement of Defendant City of San Diego’s Ordinance No.
10 21775 against Ms. Duvall’s original sculptural “visual art” shows
11 that it impermissibly reaches a substantial amount of
12 constitutionally-protected expressive conduct and as such is
13 unconstitutionally overbroad.

14 185. Defendant “can be sued directly under § 1983 for monetary,
15 declaratory, or injunctive relief where . . . the action that is alleged
16 to be unconstitutional implements or executes a[n] . . .
17 ordinance.”⁵

18 186. Defendant is violating or imminently will violate the First
19 Amendment by declaring protected speech or expression to be non-
20 expressive “handcrafts”.

21 187. Ms. Duvall suffered damages directly resulting from her citation
22 and fines in an amount to be proven at trial.

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⁵ *Monell*, 436 U.S. at 690.

1 188. Ms. Duvall’s damages include, but are not limited to, the fines she
2 has paid, her attorneys’ fees, her inability to freely show her art in
3 San Diego’s public forums as well as emotional damages including
4 stress and anxiety.

5 **FIFTH CLAIM – Violation of 42 U.S.C. § 1983 (Failure to Train).**

6
7 189. Ms. Duvall hereby alleges and incorporates by reference each and
8 every allegation contained in the preceding and subsequent
9 paragraphs of this Complaint as if pled expressly herein.

10 190. Defendant City of San Diego has a policy of failing to train its
11 Park Rangers on free speech protected by the First Amendment
12 and this policy resulted in damages to Ms. Duvall.

13 191. Defendant City of San Diego has a policy of failing to train its
14 Park Rangers on free expression protected by the First
15 Amendment and this policy resulted in damages to Ms. Duvall.

16 192. Ms. Duvall was in a traditional public forum within the City of
17 San Diego when she was cited, fined, and threatened with
18 impoundment.

19 193. Ms. Duvall was engaged in free speech protected by the First
20 Amendment when she was cited, fined, and threatened with
21 impoundment.

22 194. Ms. Duvall was engaged in an expressive activity protected by the
23 First Amendment when she was cited, fined, and threatened with
24 impoundment.

25 195. San Diego Park Rangers, in citing, fining, and threatening
26 Ms. Duvall with impoundment, were acting under color of law.

1 196. San Diego Park Rangers, in citing, fining, and threatening
2 Ms. Duvall with impoundment, deprived her of her First and
3 Fourteenth Amendment rights.

4 197. Defendant City of San Diego failed to adequately train its Park
5 Rangers on free speech protected under the First Amendment.

6 198. Defendant City of San Diego failed to adequately train its Park
7 Rangers on expressive activities protected under the First
8 Amendment.

9 199. Defendant City of San Diego was notified, repeatedly, that its
10 Park Rangers were in need of training on First Amendment
11 protections relative to free speech and free expression.

12 200. Defendant City of San Diego was deliberately indifferent to the
13 substantial risk that its inadequate First Amendment training
14 policy would result in violations of law by its employees.

15 201. The failure of the Defendant City of San Diego to provide its
16 employees with adequate training caused the deprivation of
17 Ms. Duvall's First Amendment rights by San Diego Park Rangers;
18 that is, the Defendant City of San Diego's failure to adequately
19 train its employees played a substantial part in bringing about or
20 actually causing the injury or damage to Ms. Duvall.

21 202. Defendant City of San Diego deprived Ms. Duvall of her rights
22 under the First and Fourteenth Amendments under the U.S.
23 Constitution.

24 203. Defendant "can be sued directly under § 1983 for monetary,
25 declaratory, or injunctive relief where . . . the action that is alleged
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28

1 to be unconstitutional implements or executes a[n] . . .
2 ordinance.”⁶

3 204. Ms. Duvall suffered damages directly resulting from her citations
4 in an amount to be proven at trial.

5 205. Ms. Duvall’s damages include, but are not limited to, the fines she
6 has paid, her attorneys’ fees, her inability to freely show her art in
7 San Diego’s public forums as well as emotional damages including
8 stress and anxiety.
9

10 **DEMAND FOR JURY TRIAL**

11 206. Ms. Duvall hereby demands a jury trial for all applicable causes of
12 action.
13

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Ms. Duvall prays that the Court enter judgment in
16 her favor and against the Defendant, and grant the following relief:

17 207. Declare Ms. Duvall’s artwork articulating her political beliefs to
18 be *protected speech* under the First Amendment of the U.S.
19 Constitution;
20

21 208. Declare Ms. Duvall’s artwork (that does not contain words) a
22 *protected expressive activity* under the First Amendment of the
23 U.S. Constitution;

24 209. Issue preliminary and permanent injunctive relief restraining
25 Defendant City of San Diego and its employees and agents from
26

27 ⁶ *Monell*, 436 U.S. at 690.

1 requiring Ms. Duvall to obtain a “Sidewalk Vending” (San Diego
2 Municipal Code § 36.0101, *et seq.*) permit prior to showing her
3 original artwork in traditional public forums within the City of
4 San Diego;

5 And award Ms. Duvall:

6
7 210. Compensatory damages, including for emotional harm, in an
8 amount to be proven at trial;

9 211. Special damages;

10 212. Reasonable attorneys’ fees, expert witness fees, and costs
11 pursuant to, among other things, 42 U.S.C. § 1988 and Fed. R.
12 Civ. P. 54;

13 213. Pre- and post-judgment interest at the maximum rate allowed by
14 law;

15 214. Damages to make up for any adverse tax consequences for any
16 award to Ms. Duvall; and

17 215. Any and all other relief to which Ms. Duvall is legally entitled, as
18 this Court may deem appropriate.
19

20 Respectfully submitted,

21
22 DATED: February 20, 2026

s/Michele Akemi McKenzie

23 MICHELE AKEMI MCKENZIE

24 TIMOTHY A. SCOTT

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