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Attorneys for the Plaintiff and Proposed Classes

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

_____)	Case No:
Delores Polk, on behalf of herself and)	
similarly situated;)	CLASS ACTION
)	COMPLAINT
Plaintiffs,)	
v.)	
)	
Betty Yee, in her official capacity as)	
State Controller of California; SEIU)	
Local 2015;)	
)	
Defendants.)	
_____)	

INTRODUCTION

1. The First Amendment prohibits the government and unions from seizing union dues or fees from homecare providers without their consent. *See Janus v. AFSCME, Council 31*, 138 S. Ct. 2448 (2018); *Harris v. Quinn*, 134 S. Ct. 2618

(2014). Defendants SEIU Local 2015 and the California State Controller are violating the First Amendment by maintaining and enforcing a policy under which they will seize union dues from In-Home Supportive Services (“IHSS”) providers who notify a Defendant that they no longer consent to paying union dues, unless such notification is provided to SEIU Local 2015 during an annual fifteen (15) day period. Defendants also are violating 42 U.S.C. § 1396a(a)(32) by diverting portions of IHSS payments owed to Polk and other providers to SEIU Local 2015. Plaintiff Delores Polk, on behalf of herself and similarly situated IHSS providers, seeks a declaratory judgment that Defendants’ revocation policy is unconstitutional, injunctive relief that prohibits its maintenance and enforcement, and compensatory and nominal damages for those injured by the policy.

PARTIES

2. Plaintiff Delores Polk resides in Solano County, California.

3. Defendant Betty Yee, State Controller of California (“State Controller”), is sued in her official capacity. The State Controller is a constitutional office of the State of California and has an executive office at 300 Capitol Mall, Suite 1850, Sacramento, California, 95814.

4. Defendant SEIU Local 2015 is a labor organization whose headquarters is located at 2910 Beverly Boulevard, Los Angeles, California 90057, and that conducts business in this judicial district.

JURISDICTION AND VENUE

5. The Court has jurisdiction to adjudicate this case pursuant to 28 U.S.C.

§ 1331 because it arises under the United States Constitution and 42 U.S.C. § 1396a(a)(32), and 28 U.S.C. § 1343 because Plaintiffs seek relief under 42 U.S.C. § 1983. This Court has the authority under 28 U.S.C. §§ 2201 and 2202 to grant declaratory relief and other relief based thereon.

6. Venue is proper in this Court under 28 U.S.C. § 1391 because the State Controller is headquartered in this judicial district, SEIU Local 2015 does business in this juridical district, and a substantial part of the events giving rise to the claim occurred in this judicial district.

FACTUAL ALLEGATIONS

7. In-Home Support Services (“IHSS”) is a Medicaid program that pays for services for income-eligible persons with disabilities that enable those persons to live at home and avoid institutionalization. *See* Cal. Welf. & Inst. Code § 12300 et seq.

8. Among other things, persons with disabilities enrolled in IHSS can use their IHSS subsidies to employ personal care “providers” to assist them with activities of daily living in their homes, such as eating and dressing. *See* Cal. Welf. & Inst. Code § 12300(c)-(d).

9. Providers are primarily employed by persons enrolled in IHSS or their guardians, who are responsible for hiring, directing, supervising, evaluating, and terminating their providers.

10. On information and belief, a majority of providers are related to the person receiving their care and services, and many of those providers are a parent of the person receiving their care and services.

11. The IHSS program pays providers for their services through the State Controller, which processes and sends payments to providers by direct electronic deposit to bank accounts or by check. *See* Cal. Welf. & Inst. Code §§ 12302.2, 12304.4.

12. Even though they are not public employees, California law deems providers to be public employees for unionization purposes and authorizes unions to act as the exclusive representatives of all providers in a county. *See* Cal. Welf. & Inst. Code § 12301.6(c).

13. SEIU Local 2015 is the exclusive representative of providers in approximately forty-seven (47) California counties, to include Solano county.

14. California law authorizes the State Controller to deduct an exclusive representative's dues and fees from IHSS payments made to providers and to remit those dues and fees to the exclusive representative. *See* Cal. Welf. & Inst. Code § 12301.6(h)(2).

15. The State Controller, at the behest of SEIU Local 2015 and in coordination with it, has and will deduct union dues from IHSS payments made to providers subject to SEIU Local 2015's exclusive representation and remit those monies to SEIU Local 2015.

16. SEIU Local 2015 also coordinates with other governmental entities, to include the California Department of Social Services, California counties, and nonprofit consortiums and public authorities established by counties to deliver IHSS services, to cause and effectuate the deduction of union dues from IHSS

payments made to providers. The State Controller, however, ultimately makes those deductions and transfers the monies to SEIU Local 2015.

17. Delores Polk is a provider who provides homebased care to her daughter, who is a person with disabilities enrolled in the IHSS program.

18. Upon becoming a provider in Solano county, Polk automatically became subject to SEIU Local 2015's exclusive representation.

19. In or around February 28, 2018, Polk received an unsolicited phone call from SEIU Local 2015 in which she was solicited to join SEIU Local 2015. SEIU Local 2015's solicitor read to Polk what she recalls as being technical verbiage concerning terms of membership and recorded Polk's affirmative responses to the script being read to her.

20. On information and belief, SEIU Local 2015's telephone solicitor read to Polk the terms of SEIU Local 2015's membership and dues deduction authorization.

21. Polk does not recall being notified by SEIU Local 2015's solicitor that she had a First Amendment right not to join or subsidize SEIU Local 2015 or that she was waiving that First Amendment right by agreeing to join and subsidize SEIU Local 2015.

22. Polk does not recall signing any written document in which she agreed to be a union member, agreed to have union dues deducted from her IHSS payments, or agreed to waive First Amendment rights.

23. In the days following SEIU Local 2015's telephone solicitation, Polk researched the organization and realized that she did not want to join or pay dues

to SEIU Local 2015 because its agenda did not align with her morals and values and for financial reasons.

24. In early March 2018, Polk called SEIU Local 2015, spoke with an agent, and verbally notified the organization that she did not want to be a union member and did not consent to the deduction of union dues from her IHSS payments.

25. Polk thereafter received from SEIU Local 2015 a letter dated March 13, 2018, that informed Polk that the deduction of union dues from her IHSS payments only can be stopped by her providing written notice to SEIU Local 2015 during a fifteen (15) day period prior to the anniversary date on which she agreed to dues deduction. The letter is attached as Exhibit A and incorporated herein.

26. On information and belief, SEIU Local 2015's membership and dues authorization includes, amongst other terms, a term that makes the deduction of union dues irrevocable except by mailing a written notice to SEIU Local 2015 during an annual fifteen (15) day period prior to the anniversary on which deductions were authorized. Hereinafter, this and any similar restriction shall be referred to as the "revocation policy."

27. On information and belief, SEIU Local 2015's membership and dues authorization does not include language that notifies providers that they have a First Amendment right not to subsidize SEIU Local 2015 or that clearly states that the provider agrees to waive and restrict their exercise of First Amendment rights. On information and belief, SEIU Local 2015's telephone solicitors also do not provide this information to providers they solicit.

28. After receiving SEIU Local 2015's letter of March 13, 2018, Polk again notified SEIU Local 2015 that she did not want to be a member of SEIU Local 2015 and did not consent to the deduction or collection of union dues. A copy of that letter is attached as Exhibit B and incorporated therein.

29. Notwithstanding Polk's lack of consent, the State Controller, at the behest of SEIU Local 2015, deducts union dues from IHSS payments made to Polk and remits those monies to SEIU Local 2015, which collects those monies.

30. On information and belief, SEIU Local 2015 and the State Controller have enforced, and will continue to enforce, their revocation policy against providers by deducting and collecting union dues from providers who provide notice that they do not consent to paying union dues outside of the fifteen day (15) period applicable to each provider.

CLASS ACTION ALLEGATIONS

31. Plaintiff brings this case on her own behalf and on behalf of two classes of similarly situated providers. First, Plaintiff seeks the certification, under Federal Rule of Civil Procedure 23(b)(1)(A), (b)(1)(B), and (b)(2), of a "Class" of all IHSS providers who are subject or become subject to Defendants' revocation policy. Second, Plaintiff seeks the certification, under Rules 23(b)(2) and (b)(3), of a "Revocation Class" that consists of every IHSS provider from whom the Defendants deducted or collected union dues after the provider notified a Defendant that he or she did not consent to paying union dues or to having union dues deducted from IHSS payments. Alternatively, Plaintiff requests certification of the classes or

subclasses the Court deems appropriate.

32. SEIU Local 2015 reported to the federal government that 179,729 public homecare workers were union members in 2017. On information and belief, many if not most of these individuals are subject to the revocation policy. The number of Class members makes joinder of the individual Class members impractical.

33. On information and belief, Defendants have enforced their revocation policy against providers throughout the State of California, rendering joinder of individual Revocation Class members impractical.

34. There are questions of fact and law common to all Class and Revocation Class members. Factually, all are subject to the same or similar revocation policy. The dispositive question of constitutional law is the same for the Plaintiff and Class and Revocation Class members: does Defendants' maintenance and enforcement of their revocation policy violate the First Amendment? The dispositive legal question under 42 U.S.C. § 1396a(a)(32) is also the same for the Plaintiff and Revocation Class members: does the diversion of portions of their IHSS payments to SEIU Local 2015 violate the providers' rights under that statute?

35. Plaintiff's claim is typical of Class members' claims because all claims concern whether Defendants' revocation policy unlawfully restricts providers' exercise of First Amendment rights. Plaintiff's claim also is typical of Revocation Class members' claims because all claims concern whether Defendants enforcement of their revocation policy, through the deduction and collection of union dues from the providers without their consent, violates the providers' First Amendment rights

and 42 U.S.C. § 1396a(a)(32).

36. Plaintiff will adequately represent the interests of the proposed classes, and has no interests antagonistic to the class.

37. The Class can be maintained under Rule 23(b)(1)(A) because separate actions by Class members could risk inconsistent adjudications that would establish incompatible standards of conduct for Defendants.

38. The Class can be maintained under Rule 23(b)(1)(B) because an adjudication determining the constitutionality of Defendants' maintenance of their revocation policy will, as a practical matter, be dispositive of the interests of all Class members or substantially impair or impede their ability to exercise their First Amendment rights.

39. The Class and Revocation Class can be maintained under Rule 23(b)(2) because Defendants, by maintaining and enforcing their revocation policy, have acted or refused to act on grounds that apply generally to members of the Class and Revocation Class, so that final injunctive or declaratory relief is appropriate for the Class and Revocation Class as a whole.

40. The Revocation Class can be maintained under Rule 23(b)(3) because the common questions of law and fact identified in the complaint predominate over any questions affecting only individual Revocation Class members. A class action is superior to other available methods for the fair and efficient adjudication of the controversy because, among other things, all Revocation Class members are subjected to the same violation of their constitutional and statutory rights but the

amount of money involved in each individual's claim would make it burdensome for them to maintain separate actions. The amount of the unauthorized deductions taken from the Plaintiff and Revocation Class members is known to the Defendants.

CAUSES OF ACTION

COUNT I

(Constitutional Causes of Action)

41. Plaintiff realleges and incorporates by reference the paragraphs set forth above in each Count of their Complaint.

42. Defendants act under color of state law when maintaining and enforcing their revocation policy and by deducting, causing or effectuating the deduction of, and/or collecting union dues from IHSS payments made to providers.

43. The Supreme Court in *Harris v. Quinn*, 134 S. Ct. 2618 (2014), held it unconstitutional under the First Amendment for a state and union to require unconsenting homecare providers to subsidize an exclusive representative.

44. The Supreme Court in *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2486 (2018) held that, under the First Amendment, “[n]either an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such payment, unless the employee affirmatively consents to pay.”

45. The Supreme Court in *Janus* further held that an individual’s consent to pay union dues requires a waiver of First Amendment rights. 138 S. Ct. at 2486. To be effective, a waiver of First Amendment rights must be knowingly, clearly, and

voluntarily made.

46. Defendants' revocation policy prohibits Plaintiff, Class members, and Revocation Class members from exercising their First Amendment rights under *Harris* and *Janus* for 350-51 days of every calendar year.

47. Defendants' revocation policy caused and continues to cause the deduction and collection of union dues from the Plaintiff and Revocation Class members who do not consent to paying union dues or to having union dues deducted from their IHSS payments.

48. Defendants did not obtain from the Plaintiff, Class members, or Revocation Class members a valid waiver of their First Amendment rights under *Harris* and *Janus* because, among other reasons, SEIU Local 2015's membership and dues authorization: does not clearly inform providers that they have First Amendment right not to financially support an exclusive representative and its speech; does not expressly state that the provider agrees to waive or restrict his or her exercise of First Amendment rights, and; often is a mere verbal authorization obtained during a telephonic solicitation.

49. Defendants' maintenance and enforcement of their revocation policy deprives Plaintiff's and Class members' of their First Amendment rights to free speech and association, as secured against infringement by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

50. Defendants, by deducting, causing the deduction, and/or collecting union dues from the Plaintiff and Revocation Class members pursuant to their revocation

policy, have deprived and continue to deprive Plaintiffs' and Revocation Class members' First Amendment rights to free speech and association, as secured against infringement by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

51. Plaintiffs, Class members, and Revocation Class members are suffering the irreparable harm and injury inherent in a violation of First Amendment rights, for which there is no adequate remedy at law, as a result of being subject to Defendants' revocation policy and/or as a result of being forced to subsidize SEIU Local 2015 and its speech without their consent.

COUNT II

(Statutory Cause of Action)

52. The IHSS program is a Medicaid program subject to the strictures of 42 U.S.C. § 1396a. A provision of that federal law, 42 U.S.C. § 1396a(a)(32) ("Section 32"), mandates, subject to several statutory exceptions inapplicable here, "that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise."

53. Polk and other IHSS providers have a right and privilege secured by Section 32 not to have IHSS payments owed to them for their services paid to any other party, subject to several statutory exceptions inapplicable here.

54. The State Controller, by paying to SEIU Local 2015 portions of IHSS payments that must be paid to Polk and Revocation Class members under Section

32, has and continues to deprive Polk and Revocation Class members of their rights under Section 32, as secured against state infringement by 42 U.S.C. § 1983.

55. SEIU Local 2015, by actively participating in the above mentioned conduct and by receiving from the State Controller monies that must be paid to Polk and Revocation Class members under Section 32, has and continues to deprive Polk and Revocation Class members of their rights under Section 32, as secured against state infringement by 42 U.S.C. § 1983.

PRAYER FOR RELIEF

Wherefore, Plaintiff request that this Court:

A. Issue a declaratory judgment that Defendants' revocation policy is unconstitutional under the First Amendment, as secured against infringement by the Fourteenth Amendment and 42 U.S.C. § 1983, and unenforceable;

B. Issue a declaratory judgment that Defendants violate the First Amendment, as secured against infringement by the Fourteenth Amendment and 42 U.S.C. § 1983, by deducting and/or collecting union dues from providers who do not consent to paying union dues or who notify SEIU Local 2015 or the State Controller that they no longer consent to paying union dues.

C. Issue a declaratory judgment that Defendants violate Section 32, as secured against infringement by 42 U.S.C. § 1983, by deducting and/or collecting union dues from IHSS payments made to providers.

D. Permanently enjoin Defendants along with their officers, agents, servants, employees, attorneys, and any other person or entity in active concert or

participation with them, from maintaining and enforcing the revocation policy and from deducting or collecting union dues from providers who notify SEIU Local 2015 or the State Controller that they do not consent to paying union dues;

E. Award equitable relief that requires Defendants to provide Plaintiff and Class Members with written notice that Defendants' revocation policy is unconstitutional and unenforceable; written notice that providers have the right to stop the deduction and collection of union dues from them at any time by notifying SEIU Local 2015 or the State Controller of their lack of consent, and; an opportunity to retroactively exercise that right;

F. Require SEIU Local 2015 to pay the Plaintiff and Revocation Class members nominal and compensatory damages and to pay nominal to damages to Class members.

G. Award Plaintiffs their costs and reasonable attorneys' fees pursuant to the Civil Rights Attorneys' Fees Award Act of 1976, 42 U.S.C. § 1988; and

H. Grant other and additional relief as the Court may deem just and proper.

Date: November 1, 2018

By /s/ Steven Burlingham

Steven Burlingham, Esq.

(Cal. Bar No. 88554)

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Springfield, VA 22160

Telephone: 703.321-8510

wlm@nrtw.org

*Attorneys for Plaintiff and the Proposed
Classes*

EXHIBIT A



**California's
Long Term Care
Local®**

March 13, 2018

Dear Delores Polk,
[Redacted ID]:

You are receiving this letter because you contacted SEIU Local 2015, the Union that represents you and all IHSS providers in your county in the fight for increased wages and protection of the IHSS program, regarding the cancellation of your union membership.

We want to be clear that you may cancel your membership at any time, which would mean losing the benefits of full union membership, but cancellation of dues deduction requires that you send a specific request to cancel dues authorization within the prescribed window period that was outlined on the membership card you signed.

As we explained when you contacted the Union, you chose to sign a union membership card that includes a commitment to continue paying dues until either the fifteen-day period prior to the anniversary date of the time the card was signed. If you do not request cancellation of dues deduction during any such fifteen-day period, the deductions will continue until the next such period, when you will again have the opportunity to cancel dues deductions. The next period during which you may cancel your dues authorization is **1/28/2019 through 2/11/2019**.

If you still want to cancel your membership, you may do so by sending a signed letter stating that you no longer wish to be a union member, and stating that you understand that your dues deductions will continue unless and until you send a letter during the period specified above (or during any of the later cancellation periods available to you). Please be sure the letter also contains the following information: your full name (as it would appear on your paycheck); your current mailing address and telephone number; and your provider number.

If you would like to cancel your dues deductions, please send a signed letter to the Union **during the identified window period above**, stating your desire to cancel dues deductions and payments. Please be sure the letter also contains the following: your full name (as it would appear on your paycheck); your current mailing address and telephone number; and your provider number.

You may mail either letter described in the paragraphs above to the Union (we encourage you to send it by certified mail so that there is a record of it being sent): **SEIU Local 2015, Attn: MOC Coordinator, 2910 Beverly Blvd., Los Angeles, CA 90057**.

Before making this important decision, I urge you to consider the important benefits of union membership. Members support the efforts of their co-workers to obtain better wages, benefits and job protections for the entire bargaining unit. Additionally, only members are entitled to participate in internal union matters, to vote for union leaders, and to vote to reject or ratify the collective bargaining agreement for your bargaining unit. I urge you to call our Member Action Center at 855-810-2015 to learn more about the benefits of union membership.

In Solidarity,

Kimberly Evon

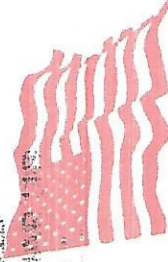
Kim Evon, Executive Vice President
SEIU Local 2015

seiu 2015
California's Long Term Caregivers
2910 Beverly Boulevard
Los Angeles, CA 90057



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Delores Polk



Vallejo, CA. 94590

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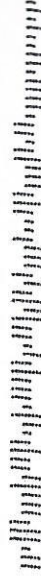


EXHIBIT B

dp

Vallejo, CA 94590

April 11, 2018

California's Long Term Care Local SEIU 2015
2910 Beverly Boulevard
Los Angeles, CA 90057

Kimberly Evon
Executive Vice President
SEIU Local 2015

Dear Ms. Evon:

On April 7, 2018, I received a letter from you regarding the cancelation of membership and of membership dues. Based upon your letter, you have left out some very important facts surrounding my request for both cancellation of membership and cancellation of deduction of dues (my wages and income).

Here are facts:

FACT: I NEVER signed a card for membership since being brought on as an IHSS provider.

FACT: I received a phone call from someone representing SEIU 2015 regarding joining SEIU 2015 and becoming a member.

FACT: While under what felt like pressure from the person who called, and under personal fatigue and stress, after a psychotic episode with my daughter, an IHSS client, I reluctantly agreed to join; HOWEVER, I did request that I be mailed a copy of what I had agreed to.

FACT: Several days after receiving a phone call from SEIU's center to join SEIU-2015, and after doing my own research, and reviewing my budget, I decided that joining SEIU-2015 did not reflect or align itself to my morals, my values, and would cause harm to me financially which would add additional stress to my household and family.

FACT: Within those several days AND the window of cancellation, I called SEIU-2015 at 855-810-2015 and spoke with an agent. At that time, I told the Agent that I had decided to cancel membership and to stop any membership dues that would be withheld from my paycheck. I also went into details my reasons for needing to opt-out. Because I didn't have a brick and mortar or PO BOX address for SEIU-2015, I requested the agent to direct supply me with such information. I was told that I would be connected to a Union Member who was in my county to address my concerns.

FACT: After several weeks of waiting for a brick and mortar address for SEIU-2015, I hadn't received an address for SEIU-2015 to send a letter to request cancellation of membership and dues, so I called to follow-up. I was then told that I could NOT cancel membership OR dues deduction. That I had missed the "window of opportunity." Each phone call I have made have been met with denials of truth, harassment, and hazing of a union.

Ms. Evon, the fact that my voice was not heard, my request was not honored, that a portion of my hard earned wages are being held hostage is not only unfair, but unethical in the way my request to cancel membership, to not have my wages deducted under the words "dues" and to not wanting to be affiliated with SEIU-2015 against my will or permission is NOT the way a Union should conduct its business.

At this time, SEIU-2015 continual denial of honoring my timely request to NOT become a member and NOT have my wages deducted, has caused stress in which I have had to see a Medical doctor for stress related matters.

At this time, SEIU-2015 continual denial of honoring my timely request to NOT become a member and NOT have my wages deducted, has caused me to not perform my duties as an IHSS provider to the best of my abilities.

At this time, SEIU-2015 continual denial of honoring my timely request to NOT become a member and NOT have my wages deducted, has caused me to seek legal advice and/or representation regarding my rights which have been violated.

Ms. Evon, SEIU-2015, has been put on notice that I, Delores Polk, within the time frame of cancelling and opting-out of membership and membership dues once again is requesting the following:

1. **Cancel** any membership with SEIU-2015 I, under stress, agreed to at that time.
2. **Cancel** any membership dues with SEIU-2015, I under stress, agreed to at that time.
3. SEIU-2015 to **review** the initial phone conversation for membership.
4. SEIU-2015 to **review** the initial phone conversation shortly thereafter, requesting cancellation of membership.
5. **Cease and Desist** the harassing phone calls I have been receiving from SEIU-2015 since March 2018.

Full Information As It Appears On Checks:

Delores Polk [REDACTED] - Vallejo, California 94590

Provider # [REDACTED]

Respectfully submitted,

Delores Polk

CIVIL COVER SHEET

Case 2:18-at-01670 Document 1-1 Filed 11/01/18 Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Delores Polk, on behalf of herself and simialrly situated

(b) County of Residence of First Listed Plaintiff Solano
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Steven Burlingham, ary, Till, Burlingham, & Lynch, 380 Lead Hill Blvd., Suite 200, Roseville, California 95661, (916) 900-1336
liam Messenger, c/o National Right to Work Foundation, 8001 Braddock Rd., Suite 600, Springfield, VA 22160, (800) 336-3600

DEFENDANTS

Betty Yee, in her official capacity as State Controller of California, SEIU Local 2015

County of Residence of First Listed Defendant Sacramento
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983

Brief description of cause:

Violation of First Amendment speech rights, as secured against state infringement by 42 U.S.C. 1983 and Fourteenth Amendment

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ yes CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Hon. Morrison C. England Jr.

DOCKET NUMBER 2:18-CV-02574-MCE

DATE

11/01/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Steven Burlingham

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims CA State Controller, SEIU Local 2015 Seize Dues from Those Who Do Not Consent to Join IHSS Union](#)
