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21 *Class*

22 **UNITED STATES DISTRICT COURT**  
23 **CENTRAL DISTRICT OF CALIFORNIA**

24 RIVAS SPORTS, INC., a California  
25 corporation, on behalf of itself and all  
26 others similarly situated; DAISY  
27 RIVAS, an individual; SIMON  
28 MANAGEMENT ASSOCIATES II,  
LLC, a Delaware limited liability  
company; and DEL AMO FASHION  
CENTER OPERATING COMPANY,  
L.L.C., a Delaware limited liability  
company,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;  
COUNTY OF LOS ANGELES  
BOARD OF SUPERVISORS; DR.  
MUNTU DAVIS, individually and in  
his official capacity as County of Los  
Angeles Health Officer;  
DR. BARBARA FERRER, in her  
official capacity as Director, County of  
Los Angeles Department of Public  
Health; and ALEX VILLANUEVA, in  
his official capacity as Sheriff, County  
of Los Angeles,

Defendants.

CASE NO. 2:20-cv-08312

**CLASS ACTION COMPLAINT**

1 Plaintiffs Rivas Sports, Inc. (“Rivas Sports”), on behalf of itself and all others  
2 similarly situated; Daisy Rivas (“Ms. Rivas”); Simon Management Associates II,  
3 LLC (“Simon”); and Del Amo Fashion Center Operating Company, L.L.C.  
4 (“DAFC”) (collectively, “Plaintiffs”) allege as follows against Defendants County  
5 of Los Angeles (the “County”); County of Los Angeles Board of Supervisors (the  
6 “Board”); Dr. Muntu Davis, individually and in his official capacity as County of  
7 Los Angeles Health Officer (“Dr. Davis”); Dr. Barbara Ferrer, in her official  
8 capacity as Director, County of Los Angeles Department of Public Health; and Alex  
9 Villanueva, in his official capacity as Sheriff, County of Los Angeles (collectively,  
10 “Defendants”):

### 11 **PRELIMINARY STATEMENT**

12 1. The County of Los Angeles Health Officer issued an order forcing  
13 indoor malls and their interior retailers to remain closed while other retailers may  
14 open—even though there is no basis in science, public health policy, or good sense  
15 for this patently discriminatory treatment. This blatantly unconstitutional act  
16 prevents interior mall stores from operating, crushing their businesses, denying their  
17 employees of their livelihoods, and laying waste to their businesses. Plaintiffs—a  
18 retailer at the Del Amo Fashion Center in the County, Rivas Sports; its owner and  
19 employee, Ms. Rivas; and Del Amo’s manager and owner—bring this action to end  
20 the unlawful and unconstitutional closing of indoor malls and shopping centers, an  
21 action taken under color of emergency powers but without any valid legal basis.  
22 Rivas Sports further brings this action on behalf of the hundreds of similarly situated  
23 retailers at Del Amo that have been forced to close and face the potential imminent  
24 collapse of their businesses without immediate relief.

25 2. During the COVID-19 pandemic, Plaintiffs have responded quickly  
26 and decisively to protect the health of employees and customers. For example, Rivas  
27 Sports and its owner, Ms. Rivas, took extensive precautions, above and beyond State  
28 and local requirements, to reduce the risk of COVID-19 transmission among

1 employees and customers at Rivas Sports' Pro Image Sports stores, while continuing  
2 to sell officially licensed sports merchandise at six locations in indoor malls  
3 throughout the County.

4 3. Early on, the pandemic resulted in the ordered closure of businesses on  
5 an unprecedented scale, as federal, state, and local governments worked together to  
6 minimize the spread of the disease and maintain public safety. In the past six  
7 months, much has been learned about how the disease spreads, and how that spread  
8 can be minimized or prevented. On August 28, 2020, after extensive review of the  
9 relevant data and science, the California Department of Public Health issued a  
10 statewide order allowing counties throughout the State to reopen indoor malls and  
11 shopping centers subject to health and safety restrictions, including 25% maximum  
12 capacity, closed common areas, and closed food courts in California counties where  
13 COVID-19 is "widespread."<sup>1</sup> The State's action was consistent with those of state  
14 and local governments nationwide. And today, California's measured, evidence-  
15 based approach is already being implemented in nearly every county, including with  
16 the reopening of indoor malls and shopping centers in neighboring Orange and San  
17 Bernardino Counties just days after the August 28 order.

18 4. To Plaintiffs' knowledge, only one county has refused to follow the  
19 State's science-based approach. On September 2, 2020, Dr. Davis, the County of  
20 Los Angeles Health Officer, ordered that, in this County—alone among counties in  
21 this State—all indoor portions and operations of indoor malls and shopping centers  
22 must "remain closed to the public until further notice."<sup>2</sup> This stands in stark contrast

23  
24 <sup>1</sup> See Exhibit 1, California Department of Public Health, Statewide Public Health  
25 Officer Order (Aug. 28, 2020), available at [https://www.cdph.ca.gov/Programs/  
CID/DCDC/CDPH%20Document%20Library/COVID-19/8-28-20\\_Order-Plan-  
Reducing-COVID19-Adjusting-Permitted-Sectors-Signed.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/8-28-20_Order-Plan-Reducing-COVID19-Adjusting-Permitted-Sectors-Signed.pdf).

26 <sup>2</sup> See County of Los Angeles Department of Public Health, Order of the Health  
27 Officer, Reopening Safer at Work and in the Community for Control of COVID-19  
28 (revised Sept. 2, 2020), available at [http://publichealth.lacounty.gov/media/  
coronavirus/docs/HOO/2020\\_09\\_02\\_HOO\\_Safer\\_at\\_Home.pdf](http://publichealth.lacounty.gov/media/coronavirus/docs/HOO/2020_09_02_HOO_Safer_at_Home.pdf). The most recent  
County Order of the Health Officer was issued on September 4 with minor  
changes, and no changes to the County's restrictions on indoor malls and shopping

1 to the County’s treatment of virtually every other retail establishment, including  
2 large and small scale retailers and even salons and barbershops—all of which were  
3 permitted to reopen immediately and operate at a minimum at 25% capacity (in  
4 accordance with statewide guidelines).

5 5. There is absolutely no data to support the differential treatment between  
6 indoor malls and the other large retail stores that have been open for months, nor any  
7 data to support differentiation of “outdoor” malls (which are allowed to open), and  
8 neither the County nor any other Defendant has offered a data-based explanation—  
9 or any reason whatsoever—for this differential treatment. The September 2, 2020  
10 order is out of line with statewide standards, as well as standards established by state  
11 and local governments nationwide.

12 6. That order has resulted in the needless closure of hundreds of  
13 businesses and thrown thousands of employees out of work, devastating those  
14 businesses, their employees, and their families. Rivas Sports has been forced to  
15 close six of its eight Pro Image Sports locations, just because they are located in the  
16 interior of County malls. At the same time, Rivas Sports’ other two locations—  
17 which are inside malls in nearby San Bernardino County—have safely reopened.  
18 Because Rivas Sports has had to close 75% of its stores, and depends on foot traffic  
19 within County malls to generate business, its sales and profits have plunged. It has  
20 been forced to lay off employees, including dedicated, long-term managers that Ms.  
21 Rivas has worked with for 15 years; and it can no longer afford to pay Ms. Rivas a  
22 salary—money Ms. Rivas needs to support herself and her three children. Over two  
23 decades, Ms. Rivas and her late husband built and expanded Rivas Sports into a  
24 thriving small business, and Ms. Rivas has devoted everything to managing the  
25 business on her own for the past five years. But the forced closure of these stores

26 \_\_\_\_\_  
27 centers. *See Exhibit 2, County of Los Angeles Department of Public Health, Order*  
28 *of the Health Officer, Reopening Safer at Work and in the Community for Control*  
*of COVID-19 (revised Sept. 4, 2020), available at*  
[http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/2020\\_09\\_04\\_HOO\\_Safer\\_at\\_Home.pdf](http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/2020_09_04_HOO_Safer_at_Home.pdf).

1 threatens the business’s viability, and could force it to permanently shut down if the  
2 County does not immediately lift the closure order.

3 7. Because of the September 2, 2020 order, hundreds of other businesses  
4 at Del Amo and other indoor malls and shopping centers in the County also remain  
5 closed to the public, depriving them of badly needed revenue and thousands of  
6 employees of gainful employment—all without any justification whatsoever or  
7 means to challenge the government’s overreaching and arbitrary action.

8 8. The County’s order has arbitrarily deprived Plaintiffs of their core  
9 property interests and other legal rights without due process and in violation of their  
10 right to equal protection under the law. It must be struck down to prevent the  
11 substantial continuing harm being inflicted on Plaintiffs, hundreds of other  
12 businesses, and thousands of employees at indoor malls and shopping centers  
13 throughout the County.

#### 14 **THE PARTIES**

15 9. Plaintiff Rivas Sports, Inc. is a California corporation. It operates eight  
16 Pro Image Sports franchises, which sell officially licensed sports apparel, such as  
17 hats and jerseys. Rivas Sports operates one location in the Del Amo Fashion Center  
18 (“Del Amo”) in Torrance, California, in the County of Los Angeles, and holds a  
19 business license from the City of Torrance for that location. Rivas Sports also  
20 operates five other locations at indoor malls in the County of Los Angeles, and two  
21 locations at indoor malls in the County of San Bernardino. Currently, all six of Rivas  
22 Sports’ County of Los Angeles locations are closed due to Defendants’ actions.

23 10. Daisy Rivas is a resident of the County of Los Angeles. Ms. Rivas is  
24 an employee of, and the sole shareholder of, Rivas Sports.

25 11. Plaintiff Simon Management Associates II, LLC is a Delaware limited  
26 liability company with its principal place of business in Indianapolis, Indiana.  
27 Simon is a manager of commercial retail real estate throughout the United States. It  
28 manages five commercial retail properties throughout California. Simon is the

1 exclusive manager of Del Amo pursuant to a contract with DAFC. As property  
2 manager, Simon is contractually responsible for operating Del Amo, including  
3 building maintenance and leasing, and employs the management employees for the  
4 facility. Simon is owned by Simon Property Group, L.P. (“Simon Property”).

5 12. Plaintiff Del Amo Fashion Center Operating Company, L.L.C. is a  
6 Delaware limited liability company with its principal place of business in  
7 Indianapolis, Indiana. DAFC owns the Del Amo Fashion Center in Torrance,  
8 California.

9 13. Defendant County of Los Angeles is a charter county organized and  
10 existing as a legal subdivision under the laws of the State of California.

11 14. Defendant County of Los Angeles Board of Supervisors is a five-  
12 member governing body, elected pursuant to the County of Los Angeles Charter.

13 15. On information and belief, Defendant Dr. Muntu Davis is a resident of  
14 the County of Los Angeles. He is a party to this action in his individual capacity  
15 and in his official capacity as County of Los Angeles Health Officer.

16 16. Defendant Dr. Barbara Ferrer is a party to this action in her official  
17 capacity as Director of the County of Los Angeles Department of Public Health.

18 17. Defendant Alex Villanueva is a party to this action in his official  
19 capacity as Sheriff of the County of Los Angeles.

20 **JURISDICTION AND VENUE**

21 18. The Court has subject matter jurisdiction over this action pursuant to  
22 28 U.S.C. § 1331 because the action arises under 42 U.S.C. § 1983 and the Equal  
23 Protection and Due Process Clauses of the Fourteenth Amendment to the United  
24 States Constitution.

25 19. Jurisdiction is also appropriate in this Court pursuant to 28 U.S.C. §  
26 1343(a)(3) “[t]o redress the deprivation, under color of any State law, statute,  
27 ordinance, regulation, custom or usage, of any right, privilege or immunity secured  
28

1 by the Constitution of the United States or by any Act of Congress providing for  
2 equal rights of citizens or of all persons within the jurisdiction of the United States.”

3 20. This Court has supplemental jurisdiction over Plaintiffs’ claims  
4 asserted under the Constitution of the State of California pursuant to 28 U.S.C. §  
5 1367(a), because Plaintiffs’ state constitutional claims arise from the same nucleus  
6 of operative facts as its federal claims and thus form part of the same case or  
7 controversy under Article III of the United States Constitution.

8 21. The Central District of California is the appropriate venue for this  
9 action pursuant to 28 U.S.C. § 1391(b)(1) and (2) because it is a District in which  
10 Defendants reside, maintain offices, exercise their authority in their official  
11 capacities, and have enforced the order at issue in this case.

## 12 **GENERAL ALLEGATIONS**

### 13 **Plaintiffs Have Safely Operated Retail Stores Inside** 14 **Shopping Malls During The COVID-19 Pandemic**

15 22. COVID-19<sup>3</sup> was declared a pandemic by the World Health  
16 Organization on March 11, 2020, and on March 13, President Trump declared a  
17 national emergency. In the days immediately following, state and local officials  
18 across the country began issuing “stay-at-home,” “shelter-in-place,” and similar  
19 orders requiring individuals like Ms. Rivas to literally remain in their homes with  
20 limited exceptions. During this period of great uncertainty about COVID-19 and  
21 how it spreads, many of these orders required all non-essential businesses to  
22 temporarily close in-store activities, and some initially required the complete closure  
23 of common areas of malls and shopping centers. These closures included Rivas

24 \_\_\_\_\_  
25 <sup>3</sup> COVID-19 is a disease caused by the SARS-CoV-2 virus. The World Health  
26 Organization recognizes that the disease name, rather than the virus name, is used  
27 “to enable discussion on disease prevention, spread, transmissibility, severity and  
28 treatment.” World Health Organization, *Why Do the Virus and the Disease Have  
Different Names?*, [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it) (last visited Sept. 10, 2020). Consistent with that purpose, this complaint will refer to COVID-19 rather than the virus that causes it.

1 Sports' eight Pro Image Sports locations, along with malls and shopping centers like  
2 Del Amo throughout the United States.

3 23. As state and local governments learned more about COVID-19, how it  
4 spreads, and how the likelihood of spread can be minimized, they gradually scaled  
5 back restrictions on individuals and commercial activities, including retail  
6 operations. These governmental actions were typically combined with sensible,  
7 achievable, and effective measures meant to inhibit the person-to-person spread of  
8 COVID-19, such as disinfectant protocols, occupancy limitations, social distancing,  
9 and the mandatory wearing of face masks.<sup>4</sup>

10 24. Rivas Sports' six County locations of Pro Image Sports were open from  
11 late May to mid-July, when all mall operations were permitted to open in the County.  
12 During this time, Rivas Sports took extensive precautions to safeguard the health of  
13 its employees and customers. Among other things, it trained employees on all  
14 applicable County protocols, posted those protocols in the store, closed the dressing  
15 rooms, posted signs regarding social distancing and directing customers to not  
16 handle the merchandise, provided employees and customers with face masks,  
17 installed sneeze-guards and hand sanitizer stations in the store, required employees  
18 to wash their hands every 30 minutes, implemented extensive cleaning protocols,  
19 assigned employees to stations to minimize the cross-use of equipment, and required  
20 managers to screen employees at the start of each shift. Rivas Sports' stores in the  
21 County operated at 50% maximum capacity at all times, in accordance with County  
22 requirements.

23 25. State and local governments overwhelmingly have recognized that,  
24 with appropriate limitations and measures, most retail business, including those  
25 inside indoor malls and shopping centers, can be operated safely. Indeed, Rivas  
26

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27 <sup>4</sup> See, e.g., Governor of Texas, Executive Order GA 18, at 3 (Apr. 27, 2020),  
28 available at [https://gov.texas.gov/uploads/files/press/EO-GA-18\\_expanded\\_reopening\\_of\\_services\\_COVID-19.pdf](https://gov.texas.gov/uploads/files/press/EO-GA-18_expanded_reopening_of_services_COVID-19.pdf).



1 Sports safely operates two retail locations at indoor malls in San Bernardino County,  
2 following state and local modifications on operations and its own stringent protocols,  
3 and with the utmost attention to the health and safety of its employees and customers.

4 **Del Amo Is Safe, But Nonetheless Its Interior Retailers**  
5 **Have Been Forced To Close Indoor Operations**

6 26. With over 250 retailers and 2.5 million square feet, Del Amo is one of  
7 the largest shopping malls in the United States. Del Amo and its retailers—including  
8 Rivas Sports—normally employ over 5,000 individuals, and the mall ordinarily  
9 generates over \$50 million in sales taxes and pays over \$10 million in real estate  
10 taxes benefiting the community each year.

11 27. From 2013 to 2016, Del Amo underwent extensive renovations costing  
12 almost half a billion dollars. State-of-the-art heating, ventilation, and air  
13 conditioning (“HVAC”) systems were installed during these 2013-2016 renovations.

14 28. Del Amo has vast and voluminous multistory pavilions that provide  
15 ample room for every patron to maintain social distancing and greatly reduce the  
16 risks of COVID-19 exposure. Hallways in the mall are 30 to 45 feet wide in most  
17 areas, and 60 to 80 feet wide in the major intersections. Ceiling heights are 50 to 70  
18 feet in two-level areas, and 15 to 40 feet in one-level areas.

19 29. On March 19, 2020, due to the COVID-19 pandemic, the County  
20 initially ordered the closure of all indoor malls and shopping centers, with the  
21 exception of “Essential Businesses” with entrances accessible to the public from the  
22 exterior of the indoor mall or shopping center. On May 26, the County issued an  
23 Order allowing indoor operations of malls and shopping centers to reopen. Del  
24 Amo’s interior reopened on May 29 with appropriate and effective safety  
25 precautions going above and beyond State and local requirements.

26 30. To ensure the safety of its retailers, their customers, and its own  
27 personnel, Simon has adopted extensive COVID-19 Exposure Mitigation Protocols  
28 in consultation with world-renowned epidemiologist and public health researcher

1 Dr. Jiali Han, and Certified Industrial Hygienist Daniel Engling. The protocols  
2 identify potential points of exposure in malls based on the latest research regarding  
3 transmission; adopt detailed measures to protect employees and customers from  
4 exposure; formulate communications and signage strategies within malls, including  
5 detailed plans regarding messaging and signage to regulate the flow of customers  
6 and encourage social distancing and personal hygiene; implement plans regarding  
7 use of common areas and closures of common area amenities, including  
8 modifications to the use of bathrooms and elevators; and thorough property cleaning  
9 and sanitation measures.

10 31. In accordance with these protocols, Del Amo implemented extensive  
11 measures to reduce the risk of COVID-19 transmission and to protect employees,  
12 retailers, and customers. Three mall entrances were used for customers, propped  
13 open at all times the mall was open to enhance air circulation. People-counting  
14 cameras at each entrance and other techniques were used to track occupancy in real  
15 time, security officers were stationed at each entrance to ensure the mall's  
16 compliance with capacity limits, and state of the art air filters were installed.  
17 Informative signage was strategically placed throughout the mall to direct the flow  
18 of customers, encourage social distancing and personal hygiene, and communicate  
19 that face masks were required at all times. All common area moveable seating was  
20 removed, and built-in seating was closed to the public. The common areas were  
21 cleaned extensively during operating hours and overnight, including sanitizing key  
22 touch points such as directories, restrooms, elevators, and escalators. Hand sanitizer  
23 stations were installed at entries and throughout indoor common areas. The food  
24 court, play area, guest services desk, nursing station, some restrooms, and every  
25 other urinal and sink in open restrooms were also closed.

26 32. On July 13, in response to a statewide upsurge in cases, the California  
27 Department of Public Health issued a Statewide Public Health Officer Order closing  
28 all indoor malls in the County, although retailers with exterior entrances and

1 essential businesses were permitted to remain open. The County then issued a public  
2 health order on July 14, mirroring the new statewide restrictions.

3 33. Rivas Sports and the vast majority of Del Amo’s retailers are “interior  
4 retailers,” meaning they have no separate entrance accessible to the public from the  
5 exterior of the mall; *i.e.*, customers must enter the indoor common area of the mall  
6 to access these retailers. Only 55 Del Amo retailers are “exterior retailers,” currently  
7 permitted to open for indoor operations at 25% capacity (with the exception of  
8 restaurants with exterior entrances, which are open only for outdoor dining and  
9 takeout). And only approximately four of Del Amo’s retailers operate non-food  
10 service essential businesses, such that they may invite consumers into their spaces  
11 by appointment to provide essential services, including optometry appointments.  
12 The remainder—approximately 200 interior retailers—have, like Rivas Sports, been  
13 permitted to offer sales only through curbside pickup or delivery since July 13.

#### 14 **California Permits Indoor Malls To Open At Reduced Capacity**

15 34. On August 28, 2020, the California Department of Public Health issued  
16 a Statewide Public Health Officer Order establishing a system that places each  
17 California county into a Tier based on health data, including case rates per capita  
18 and percentage of positive COVID-19 tests. *See* Exhibit 1 (“Statewide Order”). The  
19 County is currently in “Tier 1,” and Tiers are updated weekly as data is tracked.  
20 Beginning August 31, Tier 1 counties were permitted to reopen indoor malls and  
21 shopping centers, including their interior retailers, with maximum 25% capacity,  
22 closed common areas, and closed food courts. Tier 1 counties were also permitted  
23 to open all other indoor retail stores with maximum 25% capacity.

24 35. California’s treatment of indoor malls and their retailers is consistent  
25 with how these businesses are being treated throughout the United States. To  
26 Plaintiffs’ knowledge, none of the 50 States and no other California county besides  
27 the County of Los Angeles requires indoor operations of malls and their retailers to  
28 remain closed.

1        **The County Health Officer’s Order Opens All Retail Stores For Business,**  
 2                                **Except Those Located In Indoor Malls**

3            36. The Statewide Order provides: “A local health jurisdiction may  
 4 continue to implement or maintain more restrictive public health measures,” but only  
 5 *“if the jurisdiction’s Local Health Officer determines that health conditions in that*  
 6 *jurisdiction warrant such measures.”* Statewide Order ¶ 4 (emphasis added). To  
 7 Plaintiffs’ knowledge, all California counties except the County of Los Angeles have  
 8 aligned with the provisions of the Statewide Order, and have allowed indoor malls  
 9 and shopping centers to reopen. For example, on September 1 and 4, 2020,  
 10 respectively, Rivas Sports opened each of its two locations at indoor malls in San  
 11 Bernardino County at 25% maximum capacity. And starting on August 31, Simon  
 12 reopened indoor operations at malls in San Bernardino, Alameda, and Santa Clara  
 13 Counties, in accordance with State and local restrictions. San Bernardino and  
 14 Alameda Counties are in Tier 1, and Santa Clara County was moved to Tier 2 on  
 15 September 8 (previously, it was in Tier 1).

16            37. On September 2, 2020, Dr. Davis, the Health Officer for the County of  
 17 Los Angeles, issued an order titled “Reopening Safer at Work and in the Community  
 18 for Control of COVID-19.” See Exhibit 2 (“County Order”).<sup>5</sup> Paragraph 9 of the  
 19 County Order describes a category of “Lower-Risk Businesses.” “Lower-Risk  
 20 Businesses are businesses that are not specified in Paragraph 7 of this Order”—such  
 21 as indoor dining, bars, and entertainment venues, which must remain closed—“and  
 22 not defined as Essential Businesses in Paragraph 18 of this Order”—such as banks,  
 23 hardware stores, and grocery stores.

24  
 25 \_\_\_\_\_  
 26 <sup>5</sup> The County Order was last revised on September 4, 2020, with no revisions to the  
 27 provisions discussed in this Complaint. Compare Exhibit 2 with County of Los  
 28 Angeles Department of Public Health, Order of the Health Officer, Reopening  
 Safer at Work and in the Community for Control of COVID-19 (revised Sept. 2,  
 2020), available at [http://publichealth.lacounty.gov/media/  
 coronavirus/docs/HOO/2020\\_09\\_02\\_HOO\\_Safer\\_at\\_Home.pdf](http://publichealth.lacounty.gov/media/coronavirus/docs/HOO/2020_09_02_HOO_Safer_at_Home.pdf).

1           38. The County Order defines indoor malls and shopping centers as Lower-  
2 Risk Businesses, recognizing the inherently safe nature of those facilities. County  
3 Order ¶ 7(d). Rivas Sports and other interior retailers in indoor malls, such as retail  
4 stores selling clothes, shoes, toys, jewelry, books, and sunglasses, also are defined  
5 as Lower-Risk Businesses. And, in general, Lower-Risk Businesses, including large  
6 department stores and small retailers—indeed, even hair salons and barbershops—  
7 are now able to open to the public with capacity limitations. See County Order  
8 ¶ 7(a), (e).

9           39. The County Order thus claims that it “aligns the County with” the  
10 Statewide Order, “which describes a tiered approach to relaxing and tightening  
11 restrictions on activities based upon specified criteria[.]” County Order ¶ 1. And  
12 that is true in many respects. But when it comes to indoor malls and their interior  
13 retailers, the County Order differs sharply from the Statewide Order. Even though  
14 the County Order recognizes that these indoor malls and retail businesses are Lower-  
15 Risk Businesses, the County has ordered them to remain closed. Paragraph 9(d)  
16 provides:

17           ***For Indoor Malls and Shopping Centers***, defined as: A building with  
18 (7) or more sales or retail establishments with adjoining indoor space,  
19 ***all indoor portions and operations remain closed to the public until***  
20 ***further notice***. Businesses located entirely within the interior of an  
21 Indoor Mall or Shopping Center that are not temporarily closed  
22 pursuant to Paragraph 7 of this Order, may offer goods and services via  
23 outdoor curb-side pickup. Businesses or activities that are part of an  
24 Indoor Mall or Shopping Center and that are not closed pursuant to  
Paragraph 7 of this Order, but that are accessible to the public from the  
exterior of the Indoor Mall or Shopping Center may remain open to the  
public.

25 (Emphasis added.)

26           40. As a result of Paragraph 9(d), Del Amo’s interior retailers that are  
27 Lower-Risk Businesses, including Rivas Sports, are unable to open to the public,  
28 and employees of these retailers, such as Ms. Rivas, are unable to return to work.

1 But they would be able to open to the public and resume work if the retailers had an  
2 exterior entrance or were not otherwise located within an indoor mall.

3 41. Appendix E to the County Order details “Protocols for Shopping Center  
4 Operators.” *See* Exhibit 3 (“Appendix E”). Appendix E allows businesses located  
5 entirely within the interior of a mall or shopping center only to offer “online ordering  
6 and curbside pick-up outside the shopping center” in accordance with the following  
7 guidance:

8 Retailers that choose to offer curbside pick-up should set pick-up times  
9 for items so that employees are able to bring pre-ordered items [to]  
10 customers at a designated site or sites outside the mall. Pick-up sites  
11 should be clearly marked and customers should be encouraged to pre-  
12 pay for their orders. On arrival, customers should notify the employees  
13 that they have arrived for pick-up and should remain in their car. An  
14 employee, wearing a cloth face covering should bring the customer’s  
15 order to the designated pick-up site in a container (e.g., a bin, shopping  
16 cart, or other container) and place it directly in the customer’s trunk.

17 42. Rivas Sports has implemented online ordering with an option for  
18 curbside pickup, but no customers have elected to use curbside pickup, despite Rivas  
19 Sports’ attempts to market the option through social media posts and podcasts. This  
20 is because the Pro Image Sports business—featuring licensed sports merchandise  
21 that customers often buy on “impulse”—depends on foot traffic within the mall, as  
22 do many other interior retailers. The County Order’s allowance of strictly regulated  
23 outdoor pickup has not provided meaningful relief to Rivas Sports, Ms. Rivas, the  
24 hundreds of retailers County-wide that have been forced to close, and the thousands  
25 of employees County-wide who have lost work. Only about 40 of Del Amo’s  
26 approximately 200 interior retailers currently offer curbside pickup.

27 43. Appendix E also details how “Essential Businesses” located in a mall  
28 or shopping center’s interior may operate:

Essential services that operate inside a shopping center such as medical  
services (clinics or optometrists) may continue to operate. If these

1 businesses do not have a door that opens to the exterior of the center,  
2 these businesses should work by an appointment-only system. Staff  
3 should meet each patient/client at the mall entrance and escort them to  
4 the service location. As much as feasible other methods such as  
telemedicine options or on-line services should be offered.

5 44. Very few interior retailers at Del Amo offer “essential services,” and  
6 those that do must operate by appointment only, with employees escorting customers  
7 into and out of the mall. Currently Amy Kim Optometry and LensCrafters (offering  
8 optometrist appointments) and Skin Laundry (officer clinical skincare treatments)  
9 are open by appointment. A United States Military recruiting office and United  
10 States Post Office boxes are also operating in the interior.

11 45. In sum, the County Order requires closure of all indoor operations of  
12 malls and their interior retailers, except to the extremely limited extent that interior  
13 retailers may offer curbside pickup entirely outside of the mall, and interior Essential  
14 Businesses may offer essential services by appointment only. The County Order  
15 stands in direct contradiction to the Statewide Order.

16 **Defendants Have Offered No Valid Reason For Their Departure From**  
17 **Statewide Policy**

18 46. While indoor malls and their interior retailers are now open and  
19 operating safely *elsewhere* in California and the United States, and large and small  
20 retail stores *not* located in indoor shopping centers or malls are now open and  
21 operating safely in the County, *indoor shopping centers and their interior retailers*  
22 *in the County, like Rivas Sports, uniquely remain closed, and many of their*  
23 *employees, like Ms. Rivas, remain out of work*—without any explanation or any  
24 scientific support. Although the Statewide Order allows local health jurisdictions to  
25 implement more restrictive public health measures “if the jurisdiction’s Local Health  
26 Officer determines that health conditions in that jurisdiction warrant such measures”  
27 (Statewide Order ¶ 4), Dr. Davis has not identified any “health conditions” in the  
28 County that warrant the County’s refusal to align with the Statewide Order and

1 nationwide practice with respect to indoor malls and shopping centers. Nor has any  
2 other Defendant.

3 47. On September 4, 2020, Ms. Rivas sent an email to the Board,  
4 mentioning Rivas Sports' Del Amo location and urging reconsideration of the  
5 County's departure from the statewide policy adopted in every other county. *See*  
6 Exhibit 4. She submitted three other similar emails to the Board regarding Rivas  
7 Sports' other County retail locations. She only received an automated response that  
8 the email "will be included as part of the official record for the Board meeting," but  
9 has never received any explanation from the County regarding its arbitrary,  
10 discriminatory, and deeply harmful policy.

11 48. The State's data does not support treating Los Angeles County  
12 differently from other Tier 1 counties. For example, the State currently classifies  
13 Los Angeles and Imperial Counties as Tier 1, *i.e.*, counties where COVID-19 is  
14 deemed "widespread." The key factors that the State uses for tiering are uniformly  
15 worse in Imperial County: Its most recent adjusted case rate for tiering purposes  
16 was 11.8 new COVID-19 positive cases per day per 100,000 people (vs. 9.6 for Los  
17 Angeles County) and a 10.9% positivity rate (vs. 4.3% for Los Angeles County).<sup>6</sup>  
18 But, inexplicably, indoor malls and shopping centers in Imperial County are allowed  
19 to be open, while those in Los Angeles County must remain closed.<sup>7</sup>

20 49. The County Order provides no explanation whatsoever for its industry-  
21 specific departures from State mandates. *See* County Order ¶¶ 10-14. And there is  
22 no valid public health reason for treating indoor malls and their interior retailers  
23 differently. The only even arguable distinction between interior retailers like Rivas  
24 Sports and other retailers with exterior entrances is the need to pass through notably

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26 <sup>6</sup> *See* California Blueprint for a Safer Economy, [https://covid19.ca.gov/safer-](https://covid19.ca.gov/safer-economy)  
economy (last visited Sept. 10, 2020).

27 <sup>7</sup> *See* County of Imperial, Order of the Health Officer at 6 (Aug. 30, 2020),  
28 available at [http://www.icphd.org/media/managed/healthofficerorders/  
Health\\_Officer\\_Order\\_8\\_30\\_2020\\_v2\\_002\\_002\\_.pdf](http://www.icphd.org/media/managed/healthofficerorders/Health_Officer_Order_8_30_2020_v2_002_002_.pdf).



1 wide, high-ceilinged, and well ventilated interior corridors for access—as opposed  
2 to narrow outdoor sidewalks where social distancing, mask usage, and other  
3 protocols may not be enforceable—and that distinction does not support treating  
4 indoor malls and their interior retailers more restrictively.

5 50. The data does not support any hypothesis that those wide and high-  
6 ceilinged interior corridors pose any greater risk of transmitting COVID-19.  
7 Plaintiffs are unaware of any support—and the County Order identifies none—for  
8 the notion that settings such as spacious indoor malls and shopping centers with  
9 modern and well-maintained HVAC systems, and their interior retailers, present  
10 greater risks when compared to the large and small retailers, including hair salons  
11 and barbershops, that the County has permitted to remain open.

12 51. The World Health Organization has advised that a “well-maintained  
13 and operated [HVAC] system can reduce the spread of COVID-19 in indoor spaces  
14 by increasing the rate of air change, reducing recirculation of air and increasing the  
15 use of outdoor air.”<sup>8</sup> The Global Heat Health Information Network, an independent  
16 network of scientists and policymakers, completed a review of the available  
17 evidence and concluded: “Air conditioning and ventilation are considered effective  
18 control strategies for preventing workplace infection and ill health,” and “there is no  
19 strong evidence to suggest that a well-maintained air conditioning, ventilation, or  
20 other type of climate control system will contribute to the transmission of COVID-  
21 19.”<sup>9</sup>

22 52. Indeed, two recent studies reported that the virus was not detected at all  
23 in air samples in the immediate vicinity of COVID-19 patients in hospitals, despite  
24

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25 <sup>8</sup> *Q&A: Ventilation and Air Conditioning and COVID-19*, WORLD HEALTH  
26 ORGANIZATION (July 29, 2020), <https://www.who.int/news-room/q-a-detail/q-a-ventilation-and-air-conditioning-and-covid-19> (last visited Sept. 10, 2020).

27 <sup>9</sup> *Q&A: Do Air Conditioning and Ventilation Systems Increase the Risk of Virus*  
28 *Transmission? If So, How Can This Be Managed?*, GLOBAL HEAT HEALTH  
INFORMATION NETWORK (May 22, 2020), <http://www.ghhin.org/heat-and-covid-19/ac-and-ventilation> (last visited Sept. 10, 2020).

1 significant viral load in the patients' respiratory secretions.<sup>10</sup> Another recent study  
 2 found that on a January 2020 flight from China to Canada, two patients with COVID-  
 3 19 (one of whom was actively symptomatic) did not transmit the virus to any of the  
 4 25 passengers seated nearby.<sup>11</sup> And there have been no reports of COVID-19  
 5 transmission due to air recirculation at indoor malls, shopping centers, or retail  
 6 stores.

7 **The County Order Arbitrarily Treats Similarly Situated Businesses**  
 8 **Differently**

9 53. At the same time that the County has chosen to depart from the  
 10 Statewide Order and nationwide practice by closing indoor malls and their interior  
 11 retailers, the County has allowed comparable businesses to remain open for months,  
 12 including large retail stores (such as big-box stores and multilevel department stores  
 13 with elevators and escalators) and “outdoor” malls.

14 54. The County Order allows large stores including Walmart, Target, Cost  
 15 Plus World Market, and Daiso to operate within half a mile of Del Amo. Although  
 16 each of those stores sells essential items, they also on that account are allowed to  
 17 open all of their departments for in-store shopping and thus sell any other products  
 18 in their inventory including an enormous variety of non-essential items. However,  
 19  
 20

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21 <sup>10</sup> Vincent C. C. Cheng, *et al.*, *Escalating Infection Control Response to the*  
 22 *Rapidly Evolving Epidemiology of the Coronavirus Disease 2019 (COVID-19) Due*  
 23 *to SARS-CoV-2 in Hong Kong*, 41 INFECTION CONTROL AND HOSPITAL  
 24 EPIDEMIOLOGY 493, 497 (2020), available at <https://www.cambridge.org/core/journals/infection-control-and-hospital-epidemiology/article/escalating-infection-control-response-to-the-rapidly-evolving-epidemiology-of-the-coronavirus-disease-2019-covid19-due-to-sarscov2-in-hong-kong/52513ACC56587859F9C601DC747EB6EC>; Sean Wei Xiang Ong, *et al.*,  
 25 *Air, Surface Environmental, and Personal Protective Equipment Contamination by*  
 26 *Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) from a*  
 27 *Symptomatic Patient*, 323 JAMA 1610 (2020), available at  
 28 <https://jamanetwork.com/journals/jama/article-abstract/2762692>.

<sup>11</sup> Kevin L. Schwartz, *et al.*, *Lack of COVID-19 Transmission on an International Flight*, 192 CANADIAN MEDICAL ASSOCIATION JOURNAL E410 (2020), available at <https://www.cmaj.ca/content/192/15/E410>.

1 stores that sell comparable items in the Del Amo interior are unable to do so under  
2 the County Order, and employees of those stores are unable resume their work.

3 55. For example, Walmart and Target may sell licensed sports merchandise  
4 and other apparel right next to Del Amo, but Rivas Sports cannot resume indoor  
5 operations under the County Order simply because it is located in Del Amo's  
6 interior. Oil & Vinegar, a specialty store featuring oils, vinegars, and pre-packaged  
7 foods and gifts from around the world, has been forced to close while Cost Plus  
8 World Market continues to sell specialty food items and gifts down the street. And  
9 customers may purchase toys, stationery, and other items from Japan right outside  
10 of Del Amo at Daiso, but Sanrio and Tokyo Japanese Lifestyle are prohibited from  
11 welcoming customers in Del Amo's interior to purchase the same types of items.  
12 But there is no reason to believe that, by virtue of their placement, stores within  
13 indoor malls and shopping centers (which almost uniformly have wide, high-  
14 ceilinged, and well-ventilated interior walkways) as a class are riskier than stores  
15 located elsewhere. There is no rational basis for this differential treatment of Rivas  
16 Sports, Oil & Vinegar, Sanrio, Tokyo Japanese Lifestyle, and hundreds of other  
17 interior retailers—and neither the County nor any other Defendant has offered one.

18 56. The County's arbitrary treatment of interior retailers is evident across  
19 the Del Amo property as well. Large, multilevel stores including Nordstrom and  
20 Barnes & Noble have been permitted to operate at Del Amo since late May, merely  
21 because they have exterior entrances. However, stores selling apparel and books in  
22 Del Amo's interior, such as American Eagle and BookOff, are forced to close. But  
23 there is no reason to believe that, by virtue of their placement, stores within indoor  
24 malls and shopping centers (which almost uniformly have wide, high-ceilinged, and  
25 well-ventilated internal walkways) as a class are riskier than shopping center stores  
26 with exterior entrances. There accordingly is no rational basis for this differential  
27 treatment among the mall's retailers—and neither the County nor any other  
28 Defendant has offered one.

1           57. The arbitrariness of these classifications is particularly evident in the  
2 distinction made between department stores (in which varying types of goods are  
3 sold within different sections, and under the same roof, of the same commonly  
4 owned store) and indoor malls (in which varying types of goods are sold within  
5 separately owned stores within the same mall). There is no rational reason to  
6 conclude that the separate ownership of the stores within a mall pose a greater risk  
7 than the commonly owned but distinct sections of a department store.

8           58. The County Order's irrationality when it comes to distinctions among  
9 retail stores is also pronounced because it permits small retailers with narrow aisles  
10 and low ceilings to remain open if they have an exterior entrance, but forbids all  
11 retailers—no matter how large and well ventilated—to remain closed if they are  
12 located in the interior of a mall or shopping center.

13           59. The irrationality of the County Order is further demonstrated by the fact  
14 that the County elected to follow the Statewide Order and generally allow hair salons  
15 and barbershops to resume operations at 25% maximum capacity, in accordance with  
16 Tier 1 restrictions, beginning on September 2, 2020. County Order ¶ 9(e). Yet not  
17 only can Brow Arc Salon, located in Del Amo's interior and offering haircuts and  
18 coloring, not resume operations, but neither can interior retailers such as Dr. Eye  
19 Phone and Fast Fix, which repair phones and jewelry, respectively, services that  
20 require no person-to-person contact and thus present less risk. It is inexplicable that  
21 the County Order would choose to defy State guidance with respect to indoor  
22 malls—which easily allow for social distancing when at reduced capacity—but to  
23 follow the State's directive when it comes to services that, by their nature, require  
24 *direct and sustained* physical contact between employees and customers.

25           60. As a result of these irrational policies, consumers seeking products and  
26 services are now limited to shopping in a smaller number of governmentally favored  
27 stores, resulting in a greater concentration of consumers in a smaller number of retail  
28

1 locations, rather than a disbursement of those people across large spaces where  
2 social distancing would actually be more achievable.

3 **Virtually All Other Jurisdictions Have Rejected Defendants'**

4 **Arbitrary Interior/Exterior Mall Dichotomy**

5 61. The County Order's decision to close indoor malls and their interior  
6 retailers while allowing retail stores with exterior entrances to remain open stands in  
7 stark contrast to the approaches taken not only by California, but also by state and  
8 local governments throughout the country. Although some states and localities  
9 initially distinguished between interior and exterior mall and shopping center  
10 retailers, they have virtually unanimously eliminated such distinctions as  
11 policymakers became aware of the actual science and data. And some states, such  
12 as Florida and Texas, never recognized the arbitrary interior/exterior distinction at  
13 all.

14 62. For example, Rivas Sports' Pro Image Sports locations in San  
15 Bernardino County are currently open in accordance with the Statewide Order.  
16 These locations are in Ontario and Montclair, only 50 to 60 miles from Del Amo.  
17 And Del Amo interior retailer Oil & Vinegar's *eleven* other retail locations are  
18 currently open in Nevada, Oregon, Washington, Texas, South Carolina,  
19 Pennsylvania, Florida, and Alaska—only the Del Amo location is closed.

20 63. To Plaintiffs' knowledge, *none* of the 50 States still prohibits indoor  
21 malls and shopping centers from operating, and Los Angeles is the *only* California  
22 county to prohibit indoor mall and shopping center operations while allowing  
23 exterior retail to remain open. In fact, only *one* of the 35 commercial retail properties  
24 that Simon manages—which span 20 states and four California counties—is closed:  
25 Del Amo. The County is an extreme outlier, to the detriment of Rivas Sports, Ms.  
26 Rivas, all of the County's other businesses and residents, and the community at large.

27

28

1       **Plaintiffs Have Been Afforded No Process To Challenge The Lack Of Any**  
2       **Rational Basis For The County Order Or The Distinctions It Draws**

3           64. According to the County Order, Dr. Davis, as County Health Officer,  
4 may “issue Orders that are more restrictive than the guidance and orders issued by  
5 the State Public Health Officer” only “after consultation with the Board of  
6 Supervisors.” County Order ¶ 25. There is no evidence that Dr. Davis consulted  
7 with the Board before issuing the County Order, which is more restrictive than the  
8 Statewide Order. The lack of consultation is apparent, as any consultation would  
9 have had to occur during a meeting open to the public under California’s Ralph M.  
10 Brown Act, California Government Code § 54950 *et seq.*

11           65. No other process was available to Plaintiffs or other interested members  
12 of the public to present data to the County Health Officer or Board or otherwise  
13 influence the County Order before it went into effect.

14           66. Even though the County Order remains effective indefinitely, it does  
15 not allow for any process to challenge, before the County Health Officer or Board,  
16 its irrational classifications and determinations.

17           67. If a process were available, Plaintiffs would present scientific evidence  
18 showing that indoor malls, shopping centers, and their interior retailers present no  
19 greater public health risk than outdoor malls, other retailers, big-box stores,  
20 barbershops, hair salons, and other businesses that have been allowed to remain open  
21 or reopen. In fact, Plaintiffs would present evidence showing that indoor malls and  
22 shopping centers are *safer* and allow ample opportunities for social distancing, and  
23 that retailers like Rivas Sports, as well as managers like Simon, have made  
24 substantial investments and developed stringent protocols to protect employees and  
25 customers from the spread of COVID-19.

26  
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28

1                                   **Defendants' Irrational Actions Have Harmed Plaintiffs,**  
2                                   **And Residents Throughout the County**

3           68. The County's arbitrary closure of indoor malls and their interior  
4 retailers has caused, and will continue to cause, substantial harms to Plaintiffs, their  
5 employees, other Del Amo interior retailers and their employees, the community,  
6 and the retailers, operators, and employees of indoor malls and shopping centers  
7 throughout the County. These harms include monetary losses due to reduced  
8 income, sales, and rent payments, and non-monetary and existential losses in the  
9 form of the loss of customer goodwill. Rivas Sports and other Del Amo retailers  
10 also face the potential long-term loss of customer traffic, as consumers adjust their  
11 shopping habits, utilize more and more retailers outside Del Amo, and develop  
12 potentially long-term loyalty and brand affinity for the operating stores as a  
13 substitute for those in the mall's interior.

14           69. Rivas Sports has been forced to close 75% of its Pro Image Sports  
15 locations due to the County's indefensible policy, as six of its eight locations are in  
16 the interior of County malls, including the Del Amo location. Rivas Sports' business  
17 depends on foot traffic from the malls in which its stores operate; closing the stores  
18 has caused sales and profitability to collapse. Ms. Rivas, the sole owner and an  
19 employee of Rivas Sports, has been devastated by this sudden upheaval of her entire  
20 business. She began the business 24 years ago with her husband, starting with one  
21 franchise and expanding over time to eight. When her husband passed away in 2015,  
22 she stepped up to run the family business, and has poured her heart and soul into  
23 keeping it running on her own while raising her three children. Unfortunately, the  
24 closures have forced Rivas Sports to lay off employees, including dedicated  
25 managers that Ms. Rivas has worked with for 15 years. Rivas Sports and Ms. Rivas  
26 are doing everything they can to protect these employees, including negotiating with  
27 vendors, the franchisor, lessors, and utilities. The business cannot continue under  
28 these conditions, and Rivas Sports estimates that it will be forced to begin

1 permanently closing locations in the next month if the County does not immediately  
2 lift the closure order.

3 70. Due to the steep dropoff in sales and profitability, Rivas Sports is no  
4 longer able to pay Ms. Rivas a salary or shareholder dividends. Ms. Rivas is living  
5 off of savings and minimal unemployment insurance payments to support herself  
6 and her family.

7 71. Rivas Sports and likely over a hundred other Del Amo interior retailers  
8 would reopen at 25% capacity if permitted by the County. As permitted by the  
9 Statewide Order, Rivas Sports reopened its two locations in San Bernardino County  
10 on September 1 and 4, 2020, and would promptly open all six Pro Image Sports  
11 locations in the County if permitted. Simon opened Ontario Mills, an indoor mall  
12 located 60 miles from Del Amo in San Bernardino County, on August 31.  
13 Approximately 45% of the retailers opened on August 31 at 25% capacity, and, as  
14 of September 9, 67% of retailers were open, covering 76% of Ontario Mills' gross  
15 leasable area. In nearby Orange County, Simon Property opened indoor operations  
16 at Brea Mall with approximately 45% of retailers open on August 31, and 80% of  
17 retailers open by September 9, covering 93% of Brea Mall's gross leasable area.  
18 These numbers suggest that a substantial number of interior retailers at Del Amo  
19 would quickly reopen at 25% capacity, particularly given that Del Amo, Ontario  
20 Mills, and Brea Mall have a number of the same retailers. Interior retailers and their  
21 employees throughout the County, fully ready and able to reopen under the  
22 Statewide Order's restrictions, are suffering severe damages daily as their businesses  
23 remain closed and their employees remain out of work.

24 72. The County Order infringes on the property rights of Rivas Sports.  
25 Interior retailers, including Rivas Sports, lease space specifically for indoor  
26 shopping by the public, a safe and lawful purpose that would be possible virtually  
27 anywhere else in the country. Rivas Sports and other similarly situated interior  
28 retailers have property rights in those leases, have licenses allowing them to do



1 business, have property rights in the continued operation of their businesses, and  
2 have developed substantial goodwill among customers and the public. Many interior  
3 retailers—like Rivas Sports—depend critically on foot traffic from the millions of  
4 mall patrons annually for sales. The County Order prevents these businesses from  
5 operating, depriving them of these property rights. Likewise, Del Amo is unable to  
6 operate for indoor public shopping—even though it is licensed for that purpose, it  
7 has developed substantial goodwill among its millions of visitors each year, and  
8 DAFC has invested hundreds of millions of dollars to make it a safe and attractive  
9 shopping destination.

10 73. The County Order also infringes the right of Ms. Rivas and employees  
11 of other interior retailers to pursue their chosen occupations. Ms. Rivas is an  
12 employee of, and the owner of, Rivas Sports. All of Rivas Sports' locations are  
13 located in indoor malls and shopping centers, and 75% of those locations are  
14 currently closed due to the arbitrary and irrational County Order. As a result of the  
15 store closures, Ms. Rivas is unable to receive a salary from Rivas Sports, and the  
16 company she owns and operates may soon go out of business if the County Order is  
17 not lifted immediately.

18 74. Plaintiffs' damages attributable to Defendants' policies are severe, and  
19 continue to mount each day.

20 75. Rivas Sports' Del Amo location remains closed, is unable to generate  
21 meaningful revenue, and incurs losses due largely to expenses that cannot be  
22 reduced. During the month of June, the Del Amo location was able to generate over  
23 \$40,000 in revenue—despite capacity limitations. While that location is closed,  
24 however, it sells significantly less merchandise and causes substantial net losses for  
25 Rivas Sports. Were the Del Amo location allowed to reopen, it would see far more  
26 foot traffic and sales—just like Rivas Sports' locations in San Bernardino County,  
27 which recently reopened subject to capacity limitations. While the Del Amo location  
28 normally employs approximately 10 people—and would employ approximately 7 if

1 allowed to reopen at 25% capacity—it has had to lay employees off. In addition,  
2 Ms. Rivas, Rivas Sports’ owner, has had to stop taking a salary.

3 76. These injuries only begin to describe those that interior retailers have  
4 suffered and will continue to suffer. Interior retailers face significant lost business  
5 opportunities and the possibility of inventory spoilage. For example, Oil & Vinegar,  
6 a store selling specialty groceries, ordinarily holds a sale in August during the  
7 summer to clear its inventory—which has about a nine-month shelf life—before  
8 reordering ahead of the winter holiday season. The Del Amo store was unable to  
9 hold that sale in August, and if the store does not reopen soon, it might not have the  
10 chance to sell its inventory before it expires.

11 77. The sustained closure of Del Amo also affects the rent retailers pay.  
12 Interior retailers pay a minimum monthly rent, certain pass-through charges (such  
13 as for taxes), and a percentage of gross sales after sales exceed a certain threshold.  
14 Although retailers are obligated to pay minimum monthly rent during the term of  
15 their lease even if their stores are not open, many of Del Amo’s interior retailers are  
16 unable to generate revenue to pay rent because the County Order prevents them from  
17 operating their stores in the mall. The longer the interior of Del Amo stays closed,  
18 the more likely it becomes that retailers will be forced out of business, damaging the  
19 retailers, their employees, Plaintiffs, and the community.

20 78. The County Order is enforceable through criminal sanctions. State law  
21 authorizes law enforcement, including Defendant Alex Villanueva, in his official  
22 capacity as Sheriff of the County, to enforce orders of the County Health Officer.  
23 *See, e.g.*, Cal. Health & Safety Code § 101029; Cal. Gov’t Code § 26602. The  
24 County Order itself requests the assistance of law enforcement to “ensure  
25 compliance with and enforcement of this Order” and makes “[t]he violation of any  
26 provision of this Order . . . a public nuisance . . . punishable by fine, imprisonment,  
27 or both.” County Order ¶ 27. Plaintiffs and their employees—along with the many  
28

1 other interior retailers and their employees—would thus face criminal penalties if  
2 they violated the terms of the arbitrary and unsupported County Order.

3 **CLASS ACTION ALLEGATIONS**

4 79. Rivas Sports brings this action pursuant to Federal Rule of Civil  
5 Procedure 23(a), (b)(1)(A), (b)(2), and (b)(3) on behalf of itself and all others  
6 similarly situated. The proposed class is defined as follows:

7 All retailers at Del Amo Fashion Center that do not have an exterior  
8 entrance and are not “Essential Businesses” as defined in the County of  
9 Los Angeles Health Officer’s Order, titled “Reopening Safer at Work  
10 and in the Community for Control of COVID-19,” and last revised on  
11 September 4, 2020, and that thus must remain closed to the public for  
12 in-person shopping under the terms of that Order.

13 80. The proposed class is so numerous that joinder of all members is  
14 impractical. According to Simon’s records, Del Amo has over 150 interior retailers  
15 that are not Essential Businesses. Many of them are small businesses that have  
16 experienced severe financial hardship due to prolonged closures amid the COVID-  
17 19 pandemic, and are unable to institute suit on their own behalf. In addition, the  
18 County Order was just issued, and immediate relief from it is necessary. There is  
19 insufficient time to join all members of the proposed class.

20 81. There are questions of law and fact that are common to the proposed  
21 class. All members of the proposed class are interior retailers at Del Amo that are  
22 not Essential Businesses and are thus closed to public, in-person shopping due to the  
23 County Order. Members of the proposed class have suffered common federal and  
24 state constitutional injuries from the County Order, which arbitrarily and irrationally  
25 treats proposed class members differently based solely on their location in the  
26 interior of a mall—a distinction that has no scientific or other rational basis.  
27 Members of the proposed class have suffered, and will continue to suffer, injury to  
28 their property rights, financial harms, and loss of goodwill due to the County Order.  
Their shared common facts and harms will ensure that judicial findings regarding

1 the legality of the County Order will be the same for all members of the proposed  
2 class. Should Rivas Sports prevail, *all* proposed class members will benefit, as the  
3 interior of Del Amo—and proposed class members’ businesses—will be permitted  
4 to reopen.

5 82. Rivas Sports’ claims are typical of the claims of the proposed class.  
6 Rivas Sports and proposed class members raise common legal claims and are united  
7 in their interest and injury. Rivas Sports, like all proposed class members, is an  
8 interior retailer at Del Amo that is not an Essential Business, and has thus been  
9 forced to close to in-person public shopping by the County Order. Rivas Sports and  
10 the members of the proposed class are thus victims of the same, unlawful order, for  
11 which Defendants are responsible.

12 83. Rivas Sports is an adequate representative of the proposed class. Rivas  
13 Sports seeks relief on behalf of the proposed class as a whole and has no interest  
14 antagonistic to other members of the proposed class. To the contrary, Rivas Sports’  
15 interests are *aligned* with those of other proposed class members: Rivas Sports’  
16 business depends on foot traffic from the mall; when more stores are open, more  
17 shoppers come to the mall, increasing Rivas Sports’ potential customer base. Rivas  
18 Sports’ goal is to declare the unlawful County Order invalid, to prevent enforcement  
19 of the County Order against Rivas Sports and other Del Amo retailers, and to obtain  
20 compensation for the property, financial, and other harms the County Order has  
21 inflicted on them. Rivas Sports seeks the same remedies for all class members. It  
22 is represented by attorneys from Latham & Watkins LLP, who are experienced in  
23 class actions and complex constitutional litigation against government actors, and  
24 have the resources to successfully obtain class relief. Rivas Sports and its counsel  
25 intends to prosecute this action vigorously.

26 84. Members of the proposed class may be ascertained from Del Amo’s  
27 business records and can be personally notified of the pendency of this action by  
28

1 first-class mail, e-mail, personal service, and/or published notice calculated to reach  
2 all such members.

3 85. As this action involves the validity of the County Order, inconsistent or  
4 varying adjudications with respect to individual members of the proposed class  
5 could establish incompatible standards of conduct for Defendants. *See* Fed. R. Civ.  
6 P. 23(b)(1)(A).

7 86. Defendants have acted or refused to act on grounds that apply generally  
8 to the proposed class, and final declaratory and injunctive relief is appropriate  
9 respecting the proposed class as a whole. *See* Fed. R. Civ. P. 23(b)(2).

10 87. The questions of fact and law common to Rivas Sports and members of  
11 the proposed class predominate over any questions affecting individual members. A  
12 class action is superior to other available methods for fairly and efficiently  
13 adjudicating this controversy because, among other things: (a) the County Order  
14 applies to all proposed class members, Rivas Sports and proposed class members are  
15 entitled to uniform relief, and individualized actions could result in incompatible  
16 standards of conduct for Defendants; (b) members of the proposed class could not  
17 reasonably be expected to seek legal redress individually, as they are suffering  
18 severe financial hardship from the continued forced closure of their businesses; (c)  
19 time is of the essence to keep Rivas Sports and other proposed class members from  
20 going out of business; (d) to Rivas Sports' knowledge, there is no other litigation  
21 concerning this controversy; (e) it is desirable to concentrate this litigation in this  
22 District since Rivas Sports, other proposed class members, Del Amo, and  
23 Defendants are all located in the District; (f) the class action procedure provides the  
24 benefits of adjudicating the issues raised in a single proceeding, economies of scale,  
25 and comprehensive supervision by a single court; and (g) this action presents no  
26 unusual management difficulties. *See* Fed. R. Civ. P. 23(b)(3).

27 88. For these reasons, this case should be certified as a class action.  
28

1 **FIRST CAUSE OF ACTION**

2 **(42 U.S.C. § 1983 and *Ex Parte Young*—Equal Protection)**

3 89. All of the foregoing paragraphs are incorporated as though fully set  
4 forth herein.

5 90. The Fourteenth Amendment to the United States Constitution forbids  
6 Defendants from “deny[ing] any person . . . the equal protection of the laws.” The  
7 basic principle animating this command is that the government must treat similarly  
8 situated persons similarly; “[w]hen those who appear similarly situated are  
9 nevertheless treated differently, the Equal Protection Clause requires at least a  
10 rational reason for the difference.” *Engquist v. Or. Dep’t of Agric.*, 553 U.S. 591,  
11 602 (2008).

12 91. Under the County Order, many businesses—including big-box retailers  
13 like Walmart and Target, large department stores located in malls that have exterior  
14 entrances, and small businesses like barbershops with exterior entrances—are  
15 allowed to open to the public. Yet similarly situated non-essential businesses located  
16 in indoor malls and shopping centers cannot open to the public for in-store shopping  
17 at all—just because of their interior locations. And even the operations of essential  
18 businesses located in indoor malls and shopping centers are restricted by comparison  
19 with like businesses not located in indoor malls or shopping centers. County Order  
20 ¶ 9(d); *see* Appendix E.

21 92. There is no rational reason for this difference in treatment. The  
22 Statewide Order allows indoor malls and shopping centers to reopen, and the County  
23 Order classifies indoor malls and shopping centers as Lower-Risk Businesses, the  
24 same classification given to many other businesses that are allowed to open. County  
25 Order ¶ 9. The County Order cites no evidence supporting the determination to force  
26 indoor malls and shopping centers to remain closed while allowing other, similar  
27 businesses to open. And there is none. According to the scientific evidence, indoor  
28

1 malls and shopping centers, and the stores connected to them, pose no greater public  
2 health risk than other, similar businesses that are allowed to open.

3 93. The only distinguishing feature of the interior stores that must stay  
4 closed is the need to pass through the vast common areas of indoor malls for access.  
5 But retail shopping—including at stores that are allowed to remain open—almost  
6 always involves being indoors. There is nothing about the indoor common areas of  
7 indoor malls and shopping centers that makes transmission of COVID-19 there more  
8 likely than in other retail properties. To the contrary, the common areas of indoor  
9 malls and shopping centers generally are wider and higher ceilinged than the  
10 narrower aisles of big-box stores and department stores, much less the far more  
11 cramped spaces inside smaller stores and barbershops, and thus offer better air  
12 circulation and more room for social distancing—factors key to inhibiting the spread  
13 of COVID-19.

14 94. Moreover, interior retailers like Rivas Sports, and indoor mall and  
15 shopping center managers like Simon, stand ready to abide by capacity limitations,  
16 social distancing measures, and other guidelines meant to inhibit the spread of  
17 COVID-19. Indeed, Rivas Sports and Simon Property have invested significant  
18 resources and developed stringent protocols meant to protect employees and  
19 customers that go beyond what many jurisdictions require.

20 95. The disparate treatment visited on indoor malls and shopping centers is  
21 wholly irrational and violates equal protection. Plaintiffs and the proposed class  
22 have suffered harm to their property rights, financial harm, and harm to their  
23 goodwill on account of the County Order, and will continue to suffer such harms  
24 unless Defendants are enjoined from enforcing the County Order against them.

## 25 **SECOND CAUSE OF ACTION**

### 26 **(42 U.S.C. § 1983 and *Ex Parte Young*—Due Process)**

27 96. All of the foregoing paragraphs are incorporated as though fully set  
28 forth herein.

1           97. The Fourteenth Amendment to the United States Constitution forbids  
2 Defendants from “depriv[ing] any person of life, liberty, or property, without due  
3 process of law.” This prohibition includes a substantive component—protection  
4 from arbitrary government action—and a procedural component—a guarantee of  
5 appropriate process before a governmental deprivation of a protected interest. *See,*  
6 *e.g., Daschke v. Hartenstein*, 420 F. Supp. 3d 919, 937 (D. Ariz. 2019) (citing cases).

7           98. By forcing interior retailers to remain closed to the public, the County  
8 Order deprives Plaintiffs and proposed class members of several interests protected  
9 by due process, including, among other things, the right to use Del Amo and  
10 premises leased to interior retailers for their intended, longstanding, and otherwise  
11 lawful purpose of providing indoor shopping to the public; the right to allow public  
12 access to the Del Amo interior and the premises leased to interior retailers, including  
13 Rivas Sports and proposed class members; the right to pursue one’s chosen  
14 occupation; the right to continued business operations; rights under business  
15 licenses; and business goodwill. *See, e.g., Soranno’s Gasco, Inc. v. Morgan*, 874  
16 F.2d 1310, 1316-17 (9th Cir. 1989).

17           99. These deprivations are wholly arbitrary. The Statewide Order allows  
18 indoor malls and shopping centers to reopen, and the County Order classifies indoor  
19 malls and shopping centers as Lower-Risk Businesses, a category that is generally  
20 allowed to reopen. There is no scientific evidence showing that indoor malls and  
21 shopping centers pose any greater public health risk than businesses that the County  
22 Order allows to open, nor any rational basis for inferring such a distinction. And the  
23 County Order does not even attempt to provide any valid public health-related reason  
24 for treating indoor malls and shopping centers differently.

25           100. The County Order also fails to afford those whose rights it compromises  
26 any process whatsoever. Before the County Order went into effect, Plaintiffs,  
27 proposed class members, and other interested members of the public had no  
28 opportunity to present data showing that indoor malls and shopping centers are safe,



1 and that the distinctions the County Order draws are irrational. Nor does the County  
2 Order provide any post-deprivation process. Even though the County Order has no  
3 fixed end date, and could remain effective for the foreseeable future, it provides no  
4 process for challenging the arbitrary distinction it draws between businesses allowed  
5 to open and those forced to stay closed. *See* County Order ¶ 28.

6 101. There is no justification for this total lack of process. The COVID-19  
7 pandemic has persisted for months, and absent some process for challenging the  
8 County Health Officer's decision indoor malls and shopping centers could remain  
9 closed indefinitely, for no valid reason. "[E]ven the war power does not remove  
10 constitutional limitations safeguarding essential liberties." *Bowles v. Willingham*,  
11 321 U.S. 503, 521 (1944) (citation omitted).

12 102. If due process were available, Plaintiffs would present scientific  
13 evidence showing that indoor malls and shopping centers present no greater public  
14 health risk than outdoor malls, other retailers, big-box stores, barbershops, hair  
15 salons, and other businesses that have been allowed to remain open or reopen.

16 103. The continued forced closure of indoor malls and shopping centers, as  
17 well as their interior retailers, violates due process. Plaintiffs and the proposed class  
18 have suffered harm to their property rights, financial harm, and harm to their  
19 goodwill on account of the County Order, and will continue to suffer such harms  
20 unless Defendants are enjoined from enforcing the County Order against them.

### 21 **THIRD CAUSE OF ACTION**

#### 22 **(42 U.S.C. § 1983—*Monell*)**

23 104. All of the foregoing paragraphs are incorporated as though fully set  
24 forth herein.

25 105. Pursuant to *Monell v. Department of Social Services of the City of New*  
26 *York*, 436 U.S. 658 (1978), the County and the Board are liable for damages when a  
27 County policy, custom, or practice is the moving force behind a constitutional  
28

1 violation. *See, e.g., Castro v. County of Los Angeles*, 833 F.3d 1060, 1073 (9th Cir.  
2 2016) (en banc).

3 106. Dr. Davis, the County Health Officer, is a county officer and  
4 policymaker authorized to issue orders on behalf of the County, to enforce those  
5 orders, and to request the assistance of law enforcement in enforcing those orders.  
6 *See, e.g., Cal. Health & Safety Code §§ 101000, 101029, 101030, 101040.* The  
7 County Order represents an official policy, custom, or practice of the County.

8 107. The County Order directly causes the constitutional violations  
9 described above. Under state law and the Statewide Order, indoor malls and  
10 shopping centers are allowed to open. The County Order—and only the County  
11 Order—requires the arbitrary, irrational, and discriminatory closure of indoor malls  
12 and shopping centers.

13 108. The County and the Board have exhibited deliberate indifference to  
14 constitutional rights by, for example, allowing the County Health Officer to issue  
15 the County Order without the consultation directed under the terms of the County  
16 Order.

17 109. Under *Monell*, the County and the Board are liable for damages  
18 resulting from the constitutional violations described above.

19 **FOURTH CAUSE OF ACTION**

20 **(California Constitution—Article I, § 7)**

21 110. All of the foregoing paragraphs are incorporated as though fully set  
22 forth herein.

23 111. Under article I, § 7 of the Constitution of the State of California, “[a]  
24 person may not be deprived of life, liberty, or property without due process of law  
25 or denied equal protection of the laws.” This provision is “self-executing.”  
26 *Katzberg v. Regents of the Univ. of Cal.*, 58 P.3d 339, 342 (Cal. 2002); *see Cal.*  
27 *Const. art. I, § 26* (“The provisions of this Constitution are mandatory and  
28 prohibitory, unless by express words they are declared to be otherwise.”). And it is

1 “not dependent on [the rights] guaranteed by the United States Constitution.” Cal.  
2 Const. art. I, § 24.

3 112. “California’s state equal protection guarantee . . . is broader than its  
4 federal counterpart.” *People v. Cowan*, 260 Cal. Rptr. 3d 505, 536 (Ct. App. 2020)  
5 (Streeter, J., concurring); *see id.* (collecting cases). The irrational closure of indoor  
6 malls and shopping centers while other Lower-Risk Businesses are allowed to open,  
7 which violates federal equal protection principles, necessarily also violates  
8 California equal protection principles.

9 113. California’s due process guarantee is also broader than its federal  
10 counterpart, focusing on the “due process liberty interest to be free from arbitrary  
11 adjudicative procedures” and “protect[ing] a broader range of interests” than the  
12 United States Constitution. *Ryan v. Cal. Interscholastic Fed’n—San Diego Section*,  
13 114 Cal. Rptr. 2d 798, 814 (Ct. App. 2001). As discussed above, the County Order  
14 arbitrarily forces the closure of indoor malls and shopping centers and deprives  
15 Plaintiffs and the proposed class of, among other things, the right to use Del Amo  
16 and premises leased to interior retailers for their intended, longstanding, and  
17 otherwise lawful purpose of providing indoor shopping to the public; the right to  
18 allow public access to the Del Amo interior and the premises leased to interior  
19 retailers, including Rivas Sports and proposed class members; the right to pursue  
20 one’s chosen occupation; the right to continued business operations; rights under  
21 business licenses; and business goodwill—all without any pre- or post-deprivation  
22 process whatsoever. The County Order therefore offends California due process  
23 principles.

24 114. The County Order violates article I, § 7 of the California Constitution.  
25 Plaintiffs and the proposed class have suffered harm to their property rights,  
26 financial harm, and harm to their goodwill on account of the County Order, and will  
27 continue to suffer such harms unless Defendants are enjoined from enforcing the  
28 County Order against them.

1 **FIFTH CAUSE OF ACTION**

2 **(California Constitution—Improper Delegation Of Legislative Power)**

3 115. All of the foregoing paragraphs are incorporated as though fully set  
4 forth herein.

5 116. The California Constitution prohibits State and local governmental  
6 entities from delegating legislative power. *See Kugler v. Yocum*, 445 P.2d 303, 304-  
7 05 (Cal. 1968); *see id.* at 305 (“[T]he doctrine prohibiting delegation of legislative  
8 power . . . is well established in California.”). To prevent an unlawful delegation of  
9 legislative power, a legislative body must, at a minimum, “declare a policy, fix a  
10 primary standard, and authorize executive or administrative officers to prescribe  
11 subsidiary rules and regulations that implement the policy and standard and to  
12 determine the application of the policy or standard to the facts of particular cases.”  
13 *Birkenfeld v. City of Berkeley*, 550 P.2d 1001, 1028 (Cal. 1976). In addition, a  
14 legislative body must “establish an effective mechanism to assure the proper  
15 implementation of its policy decisions.” *Id.* at 1029; *see Gerawan Farming, Inc. v.*  
16 *Agric. Lab. Rels. Bd.*, 405 P.3d 1087, 1103 (Cal. 2017) (“[A] statute delegating  
17 legislative power must be accompanied by ‘safeguards adequate to prevent its  
18 abuse.’” (quoting *Kugler*, 445 P.2d at 306)).

19 117. If the County Order was not an executive action subject to due process  
20 and other limitations, then it was a legislative act. But if the County Order was a  
21 legislative act, it would plainly transgress California principles regarding the  
22 delegation of legislative power.

23 118. Dr. Davis’s authority to issue the County Order is based on California  
24 Health & Safety Code §§ 101040, 101085, and 120175. *See* County Order at 2.  
25 Section 101040(a) allows a health officer to “take any preventive measure that may  
26 be necessary to protect and preserve the public health from any public health hazard  
27 during any ‘state of war emergency,’ ‘state of emergency,’ or ‘local emergency,’ as  
28 defined by Section 8558 of the Government Code, within his or her jurisdiction.”

1 Section 101040(b) defines “preventive measure” broadly, meaning “abatement,  
2 correction, removal or any other protective step that may be taken against any public  
3 health hazard that is caused by a disaster and affects the public health.” Section  
4 101085(a)(1) allows a health officer, during a health emergency, to require  
5 information needed “to take any action necessary to abate the health emergency . . .  
6 or protect the health of persons in the jurisdiction, or any area thereof, who are, or  
7 may be affected.” Section 120175 requires a health officer who knows that a  
8 reportable infectious disease exists within his or her jurisdiction to “take measures  
9 as may be necessary to prevent the spread of the disease or occurrence of additional  
10 cases.”

11 119. These statutes do not provide any articulable standard to guide a health  
12 officer’s actions. These statutes do not require a health officer to make any findings  
13 based on evidence, and they provide no standards to judge what measures are  
14 “necessary to protect and preserve the public health” and when those measures are  
15 no longer “necessary.” The statutes give health officers virtually limitless authority  
16 to take any “protective step” they deem necessary in their sole discretion.

17 120. Moreover, the statutes provide absolutely no safeguards to prevent  
18 abuse. There is no requirement that the health officer periodically review his or her  
19 orders, and there is no statutory process to challenge a health officer’s order. Even  
20 if the lack of safeguards were defensible during short-term health emergencies, it is  
21 completely indefensible during a global pandemic that has already lasted months and  
22 may persist for many more. The authority of the unelected health officer to regulate  
23 conduct for an indefinite period of time cannot go unchecked. *Cf. Birkenfeld*, 550  
24 P.2d at 1029-30 (charter amendment invalid because it effectively prevented rent  
25 control board from adjusting rents, “making inevitable the arbitrary imposition of  
26 unreasonably low rent ceilings” for an “indefinite period”).

27 121. The concerns underlying the nondelegation principle are on full display  
28 here. The County Order provides no reason why it is “necessary to protect and

1 preserve the public health” to force indoor malls and shopping centers to stay closed  
2 when other retail businesses may open. Nor is there in fact any valid public health  
3 reason to force indoor malls and shopping centers to remain closed. Yet Dr. Davis’s  
4 decision to force them to stay closed is effective indefinitely, County Order ¶ 28,  
5 and is not subject to administrative review.

6 122. The statutory delegation of legislative power to health officers is  
7 invalid, on its face and as applied to the County Order. As a result, the County Order,  
8 issued pursuant to California Health & Safety Code §§ 101040, 101085, and 120175,  
9 is ultra vires and cannot be enforced. Plaintiffs and the proposed class have suffered  
10 harm to their property rights, financial harm, and harm to their goodwill on account  
11 of the County Order, and will continue to suffer such harms unless Defendants are  
12 enjoined from enforcing the County Order against them.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Rivas Sports, on behalf of itself and the proposed class, and  
15 the other Plaintiffs pray for the following relief:

16 1. Certification of this action as a class action under Federal Rule of Civil  
17 Procedure 23(a), (b)(1)(A), (b)(2), and (b)(3), appointment of Rivas Sports as class  
18 representative, and appointment of Latham & Watkins LLP as class counsel;

19 2. Judgment in favor of Plaintiffs and the proposed class and against  
20 Defendants on all causes of action alleged herein;

21 3. General, special, compensatory, and incidental damages according to  
22 proof;

23 4. A declaration that the County Order is invalid for one or more of the  
24 reasons alleged herein;

25 5. Injunctive relief preventing the County Order from being enforced  
26 against Plaintiffs and the proposed class;

27 6. Any and all other equitable relief, including preliminary and permanent  
28 injunctive relief, that the Court deems appropriate;

1           7.     An award to Plaintiffs for costs, expenses, and reasonable attorneys’  
2 fees as permitted by law; and

3           8.     An award of such other and further relief as the Court deems just and  
4 proper.

5 Dated: September 10, 2020

LATHAM & WATKINS LLP

Michael G. Romey

Richard P. Bress

Andrew D. Prins

Sarah F. Mitchell

Eric J. Konopka

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By /s/ Michael G. Romey  
Michael G. Romey  
*Attorneys for Plaintiffs and the Proposed  
Class*

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: September 10, 2020

LATHAM & WATKINS LLP

Michael G. Romey  
Richard P. Bress  
Andrew D. Prins  
Sarah F. Mitchell  
Eric J. Konopka

By /s/ Michael G. Romey  
Michael G. Romey  
*Attorneys for Plaintiffs and the Proposed Class*



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Challenges Order Keeping Los Angeles County Indoor Malls, Retailers Closed as Calif. Scales Back Restrictions](#)

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