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UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

COMITE DE JORNALEROS DE REDONDO BEACH, an unincorporated association; NATIONAL DAY LABORER ORGANIZING NETWORK, an unincorporated association,

Plaintiffs,

V.

CITY OF REDONDO BEACH,

Defendant.

Case No. CNO4-9396 CBM PIWX

# COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

42 U.S.C. § 1983 (First and Fourteenth Amendment)

1. This civil rights action challenges a Redondo Beach municipal code provision as a violation of the First and Fourteenth Amendments of the United States Constitution. This court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and 2201, as well as under 42 U.S.C. § 1983. Under 28 U.S.C. § 1391(b), venue is proper in this district because defendants reside in this district and the events giving rise to the claims occurred and occur in this district.

## **PLAINTIFFS**

- 2. The Comite de Jornaleros de Redondo Beach ("Comite de Jornaleros"), or Committee of Day Laborers of Redondo Beach, is an unincorporated association comprised of day laborers who seek to defend their rights and to address the difficulties that they face in seeking lawful employment as day workers. The day laborers who make up the Comite de Jornaleros regularly seek day work in the City of Redondo Beach. This includes day laborers who desire to make their availability for day work known through means prohibited by the municipal code provision challenged in this action. But for the code provisions, these members would engage in expressive activity indicating their availability for work on sidewalks and on other public areas of Redondo Beach.
- 3. The National Day Laborer Organizing Network (NDLON) is an unincorporated association whose office is in Los Angeles County. NDLON is a nationwide coalition of day laborers and the agencies that work with day laborers; the aims of the coalition include working for the repeal or invalidation of laws that restrict the right of day laborers to solicit lawful employment. NDLON includes day laborers who desire to make their availability for day work known in the City of Redondo Beach through means prohibited by the municipal code provisions challenged in this action.

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#### **DEFENDANT**

4. Defendant City of Redondo Beach is an incorporated municipality located in Los Angeles County. Redondo Beach adopts municipal ordinances through a five-member city council and a mayor and enforces these ordinances through the Redondo Beach Police Department. The City of Redondo Beach has instructed the Redondo Beach Police Department to enforce the unrepealed Redondo Beach municipal code provision challenged here.

### **FACTUAL ALLEGATIONS**

- 5. Redondo Beach Municipal Code section 3-7.1601 makes it unlawful for any person, while standing in any portion of a street or highway, including a roadway, parkway, median, alley, sidewalk, or public way, to solicit or attempt to solicit employment, business, or contributions from the occupants of a vehicle.
- 6. Redondo Beach Municipal Code section 3-7.1601 also makes it unlawful for the occupant of a motor vehicle, even if parked or standing, to hire or attempt to hire for employment any person or persons.
- 7. Many persons, including members of plaintiffs Comite de Jornaleros and NDLON, have previously obtained and desire to continue to obtain lawful employment performing services such as gardening, moving, and light construction, by expressing their availability for employment, while standing on a public sidewalk or other public way, to persons in vehicles on the street.
- 8. Day laborers, including members of plaintiffs Comite de Jornaleros and NDLON, fear expressing their availability for employment in the manner they have used in the past because Redondo Beach Municipal Code section 3-7.1601 subjects them to the danger of arrest, fines, and other penalties should they engage in such expression. These day laborers are also harmed by the provision in Redondo Beach Municipal Code section 3-7.1601 that prohibits their prospective employers from receiving their communication and communicating to them in response.

- 9. Redondo Beach Municipal Code section 3-7.1601 prohibits and regulates speech and other expressive activity in areas, such as public sidewalks and other public areas, that are traditional public fora.
- 10. Redondo Beach Municipal Code section 3-7.1601 discriminates among speech and other expressive activity on the basis of content, prohibiting, and prescribing criminal penalties for, speech of particular content while speech of different content, even if expressed in the same time, place, and manner, is not proscribed or regulated.
- 11. Redondo Beach Municipal Code section 3-7.1601 also regulates lawful, non-misleading commercial speech.
- 12. The City of Redondo Beach lacks either a compelling or substantial legitimate governmental interest in regulating speech and expression in the manner accomplished by Redondo Beach Municipal Code section 3-7.1601.
- 13. Redondo Beach Municipal Code section 3-7.1601 is not sufficiently narrowly tailored to serve any governmental interest that the City designed them to serve.
- 14. Redondo Beach Municipal Code section 3-7.1601 also fails to leave ample alternative avenues of communication open for proscribed speech of the specified content solicitation of employment, business, or contributions.

#### FIRST CLAIM

(42 U.S.C. § 1983 -- First and Fourteenth Amendments)

- 15. By leaving in place, enforcing, and/or threatening to enforce Redondo Beach Municipal Code section 3-7.1601, defendant City of Redondo Beach deprives plaintiffs and others of rights guaranteed by the First Amendment and Fourteenth Amendment of the United States Constitution. Defendant commits these unconstitutional acts under color or authority of law.
- 16. Continued enforcement or threats of enforcement of Redondo Beach Municipal Code section 3-7.1601 violate plaintiffs' rights and the rights of others

1	e. That plaintiffs recover such other relief as the Court deems just	
2	and proper.	
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4	Dated: 11-16-2004	Respectfully submitted,
5		MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
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7		C $A$ $A$ $A$ $C$ $A$
8		By: Shaheena Ahmad Simons
9		Attorneys for Plaintiffs
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